



Snohomish County

Departments of
Planning & Development Services
and Public Works

STAFF RECOMMENDATION

SUMMARY

File Number: 05-123050 SD

Project Name: Frogna! Estates (formerly known as Horseman's Trail)

Application Complete: August 4, 2005

Nature of Request: 112 lot Preliminary Subdivision, Planned Residential Development (PRD) Official Site Plan, and plat alteration of Lot 1 of Regatta Estates

Applicant: Frogna! Holdings, LLC
8115 Broadway Avenue, Suite 204
Everett, WA 98203

Hearing Date: January 11, 2016
Date of Report: December 30, 2015

Location: On both sides of 60th Avenue West, north of 136th Place West, off Picnic Point Road, about ½ mile south of the city of Mukilteo

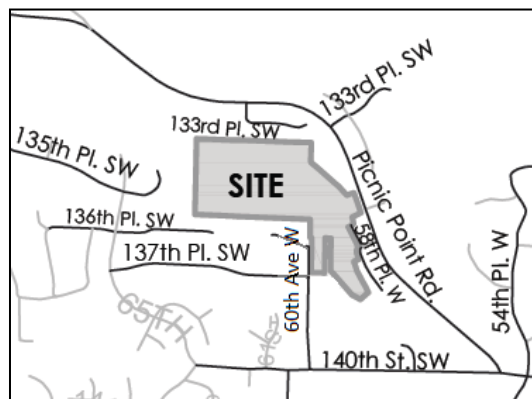


Figure 1 – Vicinity Map

Recommendation: Approve with Pre-Conditions and Conditions

PROPERTY INFORMATION

Tax Parcel Numbers:	00473300002701, 00473300002800, 00853500000100
Location:	Both sides of 60th Ave W, 200 feet north of 136th Place W., off Picnic Point Road, approximately ½ mile south of the city limits of Mukilteo, WA
Section/Township/Range:	A portion of sections 32 & 33, Township 28 North, Range 04 East, W.M.
Acreage	22.34
Current Zoning	R-8,400 and R-9,600
Proposed Zoning:	R-8,400 and R-9,600
Municipal Urban Growth Area:	Mukilteo
County Urban Growth Area:	Southwest County
Relevant Plans and Plan Designations:	<ol style="list-style-type: none"> 1. General Policy Plan: Urban Low Density Residential & Medium Density Residential 2. Paine Field Area Plan: Suburban with Environmentally Sensitive Overlay (2-4 du/ac) 3. Possession Shores Master Plan (Harbour Pointe Master Plan): Single Family High (4.5 du/ac)
School District:	Mukilteo
Fire District:	#1
Water Service:	Alderwood Water & Wastewater
Sewer Service:	Alderwood Water & Wastewater
Electrical Service	Snohomish County PUD No. 1
Park Service Area:	Nakeeta Beach (307)
Transportation Service Area	D

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FINDINGS OF FACT

Snohomish County Code requires the Hearing Examiner and the department of Planning and Development Services, or PDS, to inquire into facts relevant to the proposed action (see *former* SCC 30.41A.100 - Decision Criteria General). This section of the staff recommendation sets forth PDS' understanding of the facts relating to the Frognal Estates proposal. There are three subsections to these finding of fact. The first, *Background Information*, establishes the context for the proposal. The second subsection, *Issues of Concern*, identifies matters regarding the project that may need careful consideration by the Hearing Examiner. The third, *Project Consistency with Adopted Codes and Policies*, evaluates the proposal against relevant specific requirements. After establishing the known facts about the project, the next section is the Conclusions reached by PDS. The final section gives the Staff Recommendation to the Hearing Examiner, which includes preconditions and conditions suggested by PDS. The basis of these preconditions and conditions must be the facts and conclusions outlined earlier in this document.

Background Information

Applicant's Proposal

Frognal Estates is a proposal for a 112-lot planned residential development site plan and preliminary subdivision of 22.34 acres in and adjacent to the Harbour Pointe master planned community. It is near Mukilteo and is located in the Southwest Urban Growth Area. The original name of the proposal was Horseman's Trail. For simplicity, this staff recommendation will refer it as Frognal Estates except for where reference to the original name is necessary.

The Frognal Estates proposal includes a concurrent plat alteration of Lot 1 of Regatta Estates (which would become part of Frognal Estates). Three unopened rights-of-way would be vacated and become part of Frognal Estates. Several new roads would be constructed. The site is currently forested. Approximately 8 acres of open space would be preserved within the development, and approximately 5.1 acres of forest would remain on the site. The subdivision would be served by public water and sewer. Gross density would be 5.01 dwelling units per acre. Net density would be 10.75 dwelling units per acre.

The application (Exhibit A.1) was submitted and deemed complete on August 4, 2005. The County's regulations in effect at that date apply to the proposal. It is therefore vested to the August 4, 2005, version of Snohomish County Code.

Figure 2, next page, illustrates the proposed PRD site plan. See Exhibit B.1 for the full PRD site plan. The development would include installation of underground stormwater detention vaults and numerous bio-retention cells, utilities, ornamental landscaping and installation of approximately 1,204 conifer and deciduous trees. Recreational amenities include walking paths and trails, open grass play areas, landscaped open spaces and a social gathering area. There are no wetlands on the project site (see Exhibit K.9). However, there is a limited landslide hazard

area near the northwest corner of the site. Recontouring approximately 17.2 acres of the site will be required in order to develop grades suitable for housing, utilities, and road construction. Alderwood Water and Wastewater District provides water and sewer service in this area. In accordance with SCC 30.66B, mitigation for traffic impacts for the county road systems will be required, as will mitigation in accordance with SCC 30.66A and SCC 30.66C for project impacts to the county parks system and to the Mukilteo School District.

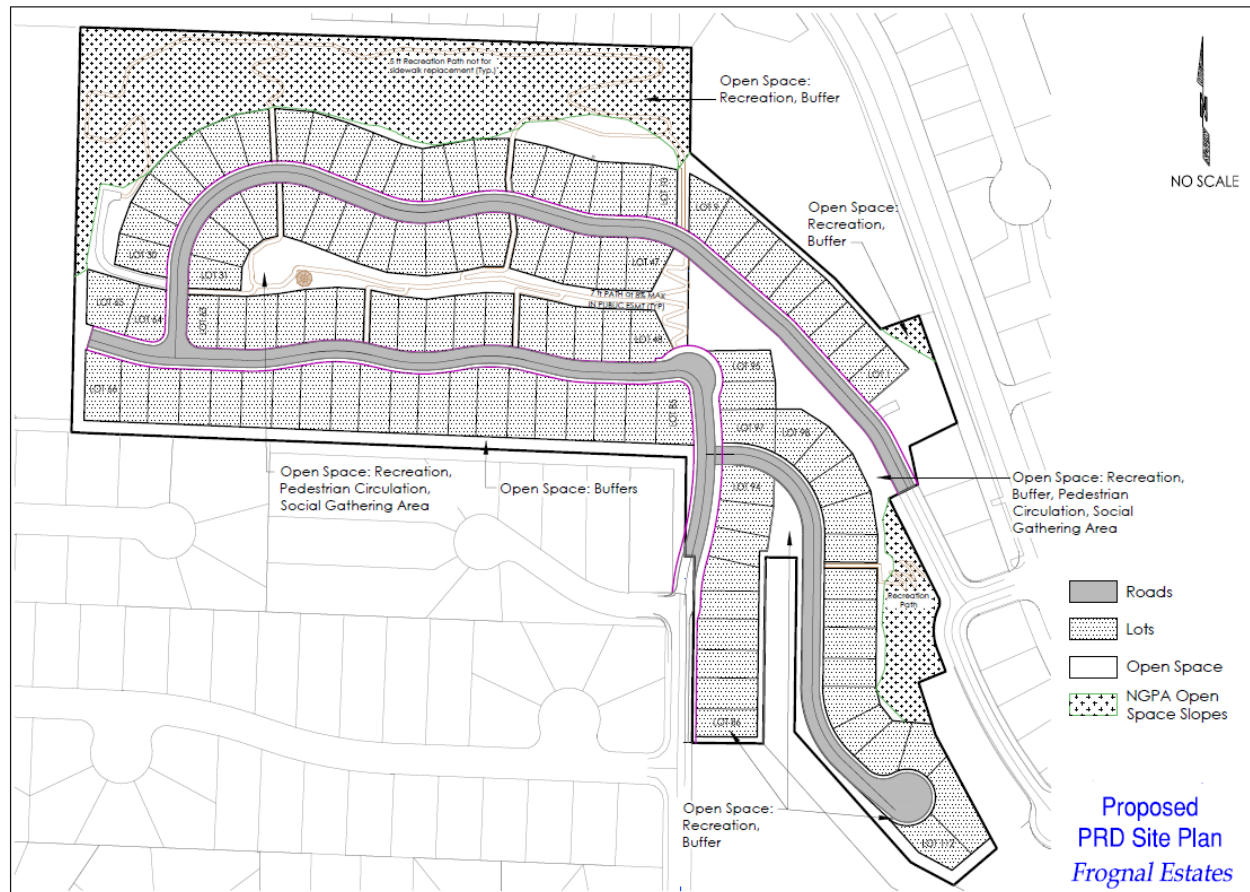


Figure 2 – Proposed Planned Residential Development Site Plan

Land Use History

Frogal Estates is an assemblage of three vacant parcels. One parcel (Lot 1 of Regatta Estates) lies within Sectors 22 and 23 of the Harbour Pointe Master Plan area. Two parcels of the site (Lots 27 and 28 of the Hillman's Meadowdale Addition) are located outside the Harbour Pointe Master Plan area. The original name in 1978 for the Harbour Pointe Master Plan (Exhibit K.6) was Possession Shores. This recommendation generally uses the more familiar current name.

In 1983, Snohomish County adopted the Paine Field Area Comprehensive Plan (PFACP, Exhibit K.5). This plan was still in effect on October 4, 2005 (it was repealed effective February 1, 2006). Washington State adopted the Growth Management Act (GMA) in 1990 and Snohomish

County adopted its first countywide GMA plan known as the General Policy Plan (GPP) on June 28, 1995. All of Frogнал Estates is subject to the GPP and PFACP. Only the east part of Frogнал Estates is subject to the Harbour Pointe Master Plan. See Figure 3, below.



Figure 3 – Frogнал Site and Applicable Plans

The portion of the site encompassing Lot 1 of Regatta Estates lies primarily in Sector 22 of the Harbour Pointe Master Plan. The small segment of Lot 1 of Regatta Estates now in Sector 23 became part of the parcel following purchase from the Mukilteo School District and recording of a Boundary Line Adjustment (BLA) on October 19, 2005 (Snohomish County Auditor File No. 200510191129). This BLA moved the south boundary line of Lot 1 south to encompass the land purchased from the Mukilteo School District (Picnic Point Elementary School). The BLA increased the size of Lot 1 to about 7.46 acres. The two parcels (Lots 27 and 28 of the Hillman’s Meadowdale Addition) located outside the Harbour Pointe Master Plan are not subject to the Harbour Pointe Master Plan or Sector 22 and 23 approvals.

Three factors combine to determine the maximum potential density for the Frogнал Estates proposal:

1. The Sector 22 plan approved per the Harbour Pointe Master Plan,
2. The Sector 23 plan, likewise approved per the Harbour Pointe Master Plan, and
3. The Snohomish County Planned Residential Development (PRD) code provisions contained in the October 4, 2005, version of SCC Chapter 30.42B.

Under the contract rezone for the Harbour Pointe Master Plan, individual sector plans determine the maximum number of units by sector. Final calculation of the maximum number of units

occurs at the Division of Development (or DoD) stage. Division of Development is a requirement unique to the Harbour Pointe Master Plan. The director of Planning and Development Services (or PDS) gives DoD decisions (see Exhibits K.3 and K.4). Under the contract rezone, subdivision requests such as Frogna Estates must conform to the regulations in effect at the time of application, which in this case means August 4, 2005. At the time of the contract rezone, the DoD requirements were stricter than the subdivision requirements of the day. By 2005, the requirements for preliminary plat approval had expanded to include everything required by DoD and more. Hence, the requirements of the Corrected DoD signed by the PDS director on September 23, 2015 (Exhibit K.4) are a preview of requirements included in this preliminary plat recommendation, but there are additional conditions recommended here.

The remaining number of dwelling units available in Sector 23 is fourteen¹, and six are proposed. The remaining number of dwelling units available in Sector 22 is 91 and 30 are proposed. Regulation of the portion of Horseman's Trail/Frogna Estates west of 60th Avenue West is solely the Snohomish County Land Use Code. For project consistency and environmental sensitivity, the proposal is to develop this area in accordance with Snohomish County PRD regulations (Chapter 30.42B SCC) consistent with the Harbour Pointe Master Plan areas (Sectors 22 and 23).

Former Snohomish County Code (SCC) 30.42B.040 (unit yield and bonus) provisions determine the maximum number of dwelling units permitted in the portion of the PRD site outside the Master Plan area. This portion of the site is zoned R-9600 (one dwelling unit per 9,600 square feet of land area), and includes 648,388 square feet. Dividing this area by the allowed zoning density yields 67.54 lots as a base calculation, with a 20 percent bonus for using the planned residential development (PRD) approach, yielding a total of 81 lots allowed. The Horseman's Trail/Frogna Estates Proposed Action (PRD proposal) includes 76 lots in this area, outside of Sector 22 and Sector 23. In summary, the maximum number of dwelling units allowed for the entire Horseman's Trail/Frogna Estates PRD is 81 lots west of 60th Avenue W, and 105 lots (per Sector 22 and 23 Plans) east of 60th Avenue W, for a total of 186 allowable lots.

Frogna Estates	Maximum Allowable Residential Units	Number of Units Proposed in PRD
Sector 22	91	30
Sector 23	14	6
Outside Harbour Pointe	81	76
Totals	186	112

Table 1 – Maximum Number of Lots and Proposed Number of Lots

¹ The FEIS erroneously gives the maximum allowable residential units in Sector 23 as eight on Table 1.3-1 (page 1-10). This smaller number relies on inaccurate information that understated the total size of Sector 23; hence, earlier documents being referenced understate what could have been built in Sector 23. See Exhibit K.9, an email from Ryan Countryman to Vicki Morris dated 4/13/15 for a detailed explanation.

Lot 1 of Regatta Estates is subject to conditions for a contract rezone for Harbour Pointe. To comply with contractual requirements, a Division of Development (DoD) was approved by PDS on September 10, 2015 (Exhibit K.3) and a Corrected Division of Development (CDoD, Exhibit K.4) was approved on September 23, 2015. This CDoD includes conditions that any preliminary plat approval for Frogna! Estates must apply per the contract rezone. It also allows application of additional conditions to the project in the preliminary plat process as necessary.

Surrounding Uses/Zoning

The zoning on the Frogna! Estates site is split. The two parcels in Hillman's Addition have R-9600 zoning and Lot 1 of Regatta Estates has R-8400 zoning. These zones will remain unchanged (see Figure 4, below).

Zoning on the immediately surrounding properties is residential of various densities. Most of the housing in the area is single-family detached, but there are also townhouse condos and rental fourplexes in the area. Separated from Frogna! Estates by an open space tract of Regatta Estates and the north side of Picnic Point Road is an Alderwood Water District treatment facility (which has split zoning of Heavy Industrial, R-9600, and PRD-LDMR). South of the Frogna! Estates site on the east side of 60th Avenue West is Picnic Point Elementary (a conditional use permitted in R-8400 zoning). At a high visibility corner where Picnic Point Road meets 140th Street SW, is a parcel zoned for Neighborhood Business uses, but which is currently residential in use. Many of the larger tracts of land are residentially zoned but owned by the Snohomish County Parks Department and are in passive park use. Due to a variety of historic reasons, zoning in this area is not a good predictor of land use or density.

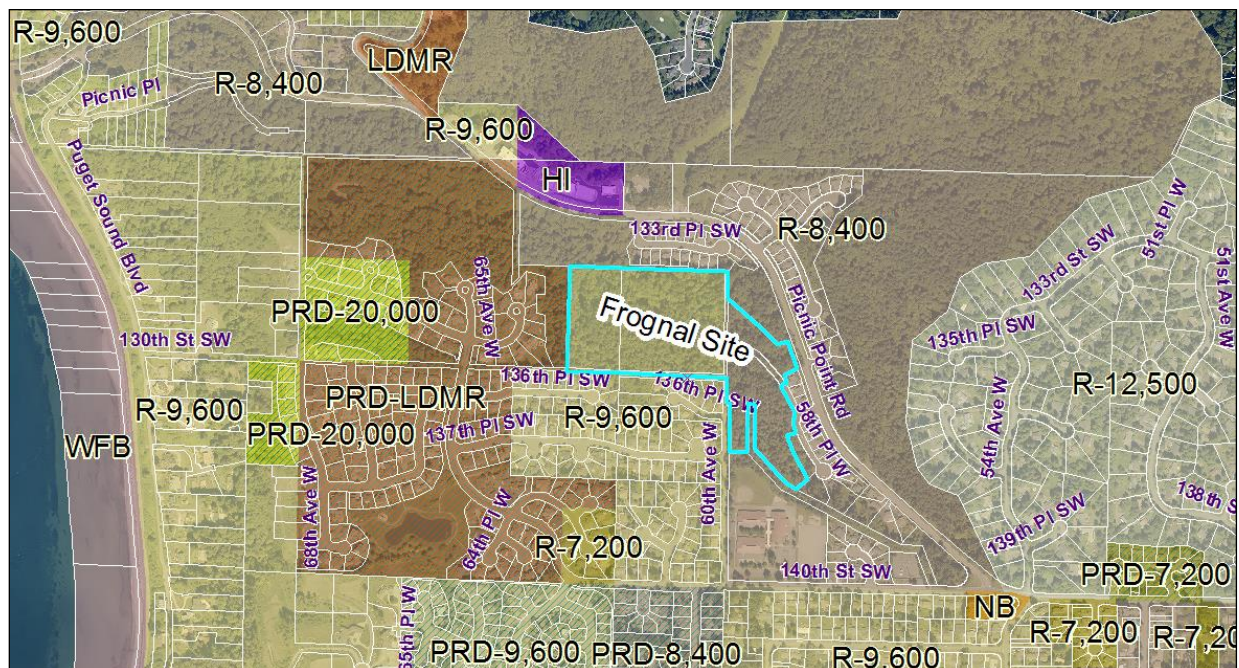


Figure 4 – Frogna! Site and Nearby Zoning

Comprehensive Plan

Frognal Estates is subject to the four elements of the Snohomish County GMA Comprehensive Plan (GMACP). The original GMACP elements were adopted pursuant to Ordinance 94-125, which became effective on July 10, 1995. These elements are: the General Policy Plan (GPP); the Transportation Element; the Capital Improvement Program; and the Comprehensive Park & Recreation Plan. Several amendments have revised the General Policy Plan since its initial adoption.

The Frognal Estates application was determined to be a complete application as of August 4, 2005. Hence, its vesting is to the plan designations in place in the GMACP at that time. This evaluation of the subject application is for consistency with the version of the GMACP adopted by Resolution No. 05-001 that was effective from January 5, 2005 to December 31, 2005. Figure 5, below, shows that the majority of the site was designated as Urban Low Density Residential (ULDR) but that two small pieces, shown in brown, were designated as Urban Medium Density Residential (UMDR) (these are the a southwestern finger along 60th Avenue West and a sliver of land at the very west of the site).

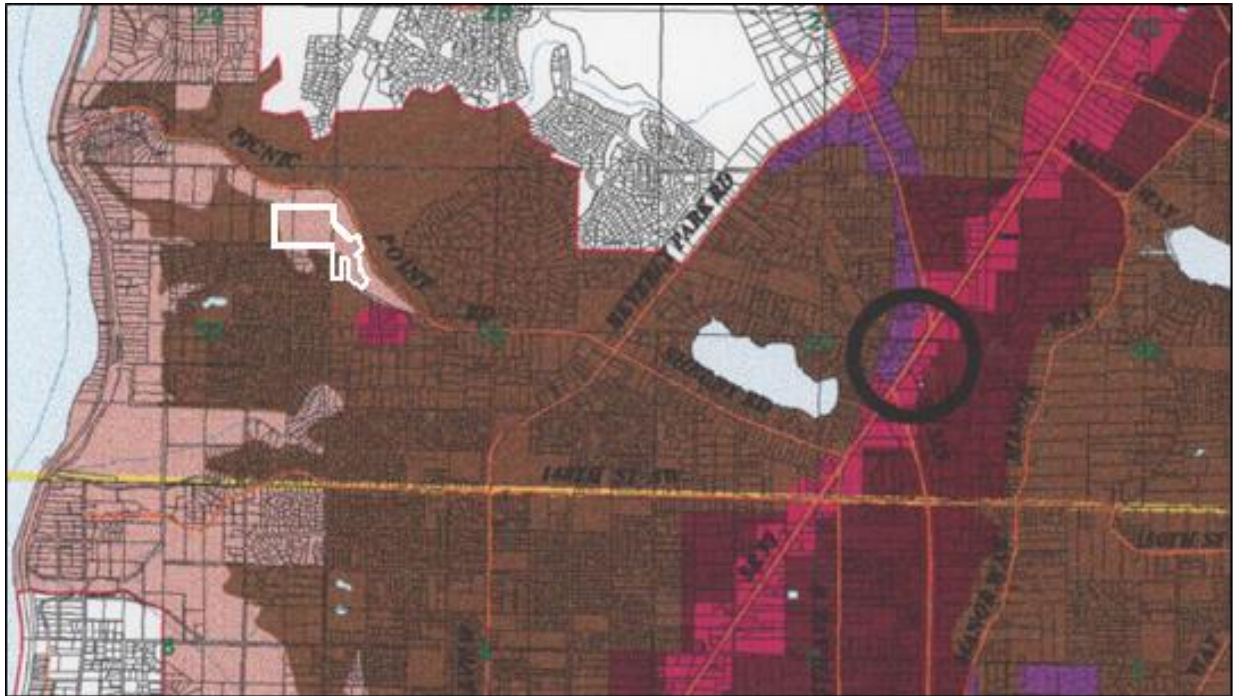


Figure 5 – Frognal Site² and Vested GMAC Designations

In addition to the January 5, 2005, version of the GMACP, Frognal Estates is vested to the Paine Field Area Plan (PFAP), which was in effect from August 4, 1984 until February 1, 2006. The plan designation in the PFAP was Suburban (2-4 du/ac) with an Environmentally Sensitive Overlay for slopes (see Figure 6, next page).

² The depiction of the Frognal Site in this figure is not precise because it was hand-drawn over a scanned image.

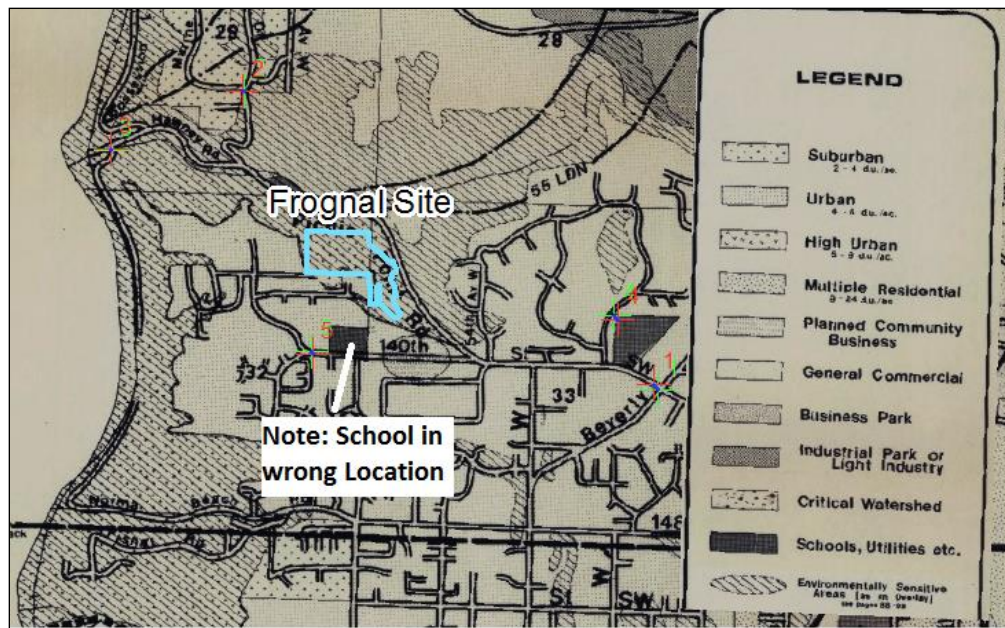


Figure 6 – Frogmal Estates Site³ and Vested Paine Field Area Plan Designations

In December 2005, the County Council passed an update to the Comprehensive Plan, revising the plan designations in the area in several ways. Most of the UMDR designation in the area became ULDR to reflect existing land use patterns. Public/institutional uses got a new designation to reflect their use and ownership. The new plan also revised the area designated for commercial uses. Figure 7, below, reflects these changes (which had an effective date of February 1, 2006). On February 3, 2006, PDS issued a review completion letter (Exhibit M.4) that erroneously identifies the site as being entirely designated as ULDR; it was ULDR at that point but for project review purposes it was both ULDR and UMDR.

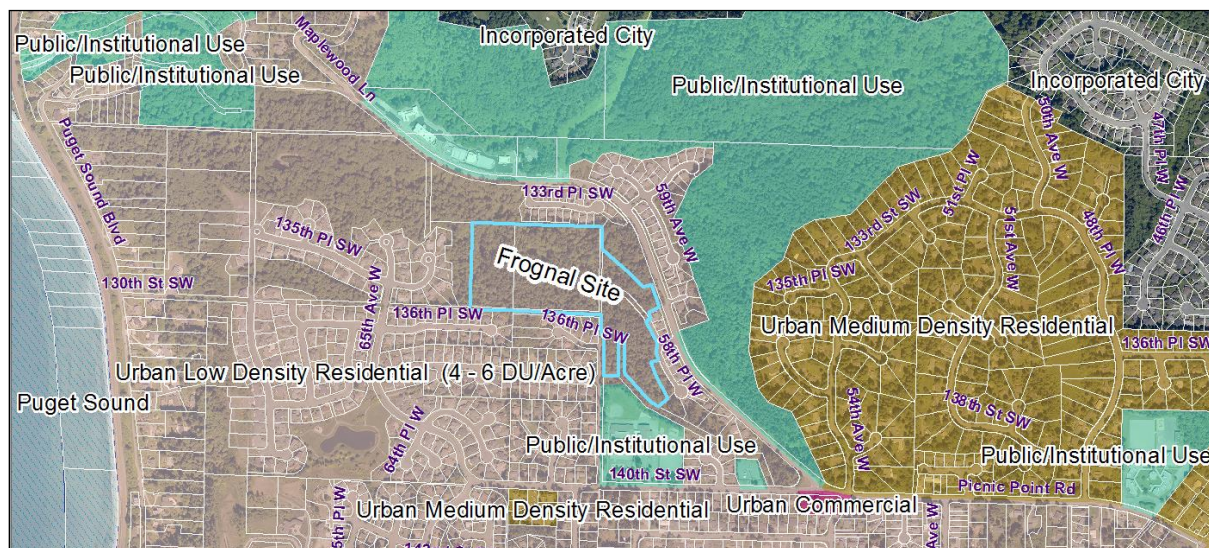


Figure 7 – Frogmal Estates Site and Current Nearby Comprehensive Plan Designations

³ The depiction of the Frogmal Site in this figure is not precise because it was hand-drawn over a scanned image.

The preceding detailed discussion on comprehensive plan designations is included in this staff recommendation as errata to the EIS for Frogmal Estates. The EIS discusses Frogmal Estates as being entirely designated as ULDR; it is entirely ULDR today, but it is vested to a time when two small parts of were UMDR in the comprehensive plan.

It is important to note that the comprehensive plan does not identify either of the zones on Frogmal Estates – R-9600 and R-8400 – as implementing zones for UMDR. Instead, they are both implementing zones for ULDR. Therefore, while the EIS incorrectly identifies the plan designations to which the proposal is vested, the analysis would have been unchanged if the information above about the parts of the site having vesting to the UMDR designation had been included.

The comprehensive plan encourages innovative land use measures to accommodate new growth. The Frogmal Estates proposal is a Planned Residential Development, which includes more recreational open space than is required in a traditional plat (Chapter 30.42B SCC). The project design provides adequate road access, connection and circulation to minimize traffic congestion, ensures adequate utility services, and provides emergency vehicle access. The configuration and design of the roads and access facilities in this development are in accordance with Chapter 30.24 SCC, 30.66B SCC, Chapter 30.53A SCC, and the Engineering Design and Development Standards (EDDS), with certain deviations granted and discussed elsewhere. The project design provides adequate and safe pedestrian access to and circulation in the development by sidewalks. The applicant proposes underground detention and water quality control vaults to control stormwater. Preliminary plans have been determined to conform to the provisions of Chapter 30.63A SCC, Washington Department of Ecology Drainage Manual, and the Engineering Design and Development Standards (EDDS). Utility purveyors will provide water, sewer and electric service to the project.

Project Chronology

Submission of the original application for Frogmal Estates to Planning and Development Services (PDS) was on August 4, 2005 under the name “Horseman’s Trail” (Exhibit A.1). (For simplicity, this recommendation will refer to the project using its current name). The application was determined to be complete as of the date of submittal for regulatory purposes, but insufficient for further review. The applicant submitted revised project plans and application materials on a number of occasions to address application review comments by PDS up to the decision by PDS to issue a Determination of Significance (DS) for the proposal on April 27, 2007 (Exhibit E.2). Preparation of the Environmental Impact Statement (EIS) began in April 2007. (See the Environmental Review section on the next page for a brief summary of the EIS process.) Under SCC 30.70.110(2)(b), the 120-day application review time stops during preparation of an EIS.

Site Description

The Frogna! Estates site is an assembly of three parcels and three unopened rights-of-way that would require a road vacation through a separate process. Based on data sources, the total acreage of parcels plus rights-of-way to be vacated would total either 22.34 acres (applicant submittal) or 22.40 acres (Snohomish County GIS). As illustrated in Figure 8, below, the site is located on both sides of 60th Avenue West, generally north of 136th Street Southwest off of Picnic Point Road. It is also approximately ½ mile south of the Mukilteo city limits. Two of the three parcels are from Hillman’s North Seattle Puget Sound Front Meadowdale Addition (Hillman’s Addition for short), specifically parcels 27⁴ and 28. The third parcel is Lot 1 of Regatta Estates.

With respect to Figure 8, it is worth noting here that the parcel area of Lot 1 of Regatta Estates is 7.15 acres and the amount of unopened right-of-way through the middle of this lot is 0.36 acres (both figures according to Snohomish County GIS data), for a total of 7.51 acres. Some exhibits refer to the combined acreage as if the right-of-way were already part of Lot 1. This will not be the case unless and until a right-of-way vacation occurs. Further, the same exhibits give the combined acreage as 7.46 acres. There is further discussion regarding differences in total acres in the section titled Issues of Concern.

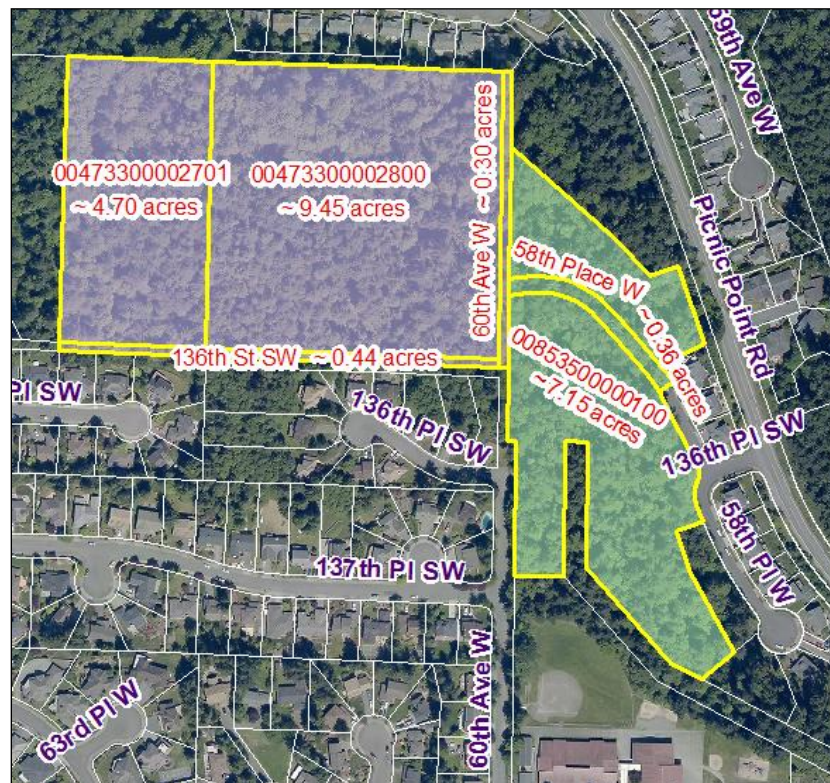


Figure 8 – Estimated Acreages of Various Pieces of Frogna! Estates

⁴ Technically, Frogna! Estates includes just the east half of lot 27 because the west half became part of the plat of Picnic Pointe, Division 3, in 1996.

Mature second growth forest covers the site as shown on the previous page in Figure 8. Significant changes in topography occur across the site. It is on the south side of the Picnic Point Creek valley and includes elevations ranging between 270 feet and 460 feet above mean sea level (MSL). The central and southern portions of the site are relatively flat, with elevations above about 400 feet MSL. The northern portion of the site occupies the valley side. Two dry ravines incise the site ravines running south to north. Tree cover on these slopes includes a mixture of deciduous and coniferous trees: predominantly Douglas fir and western hemlock, with a few western red cedar, red alder, and Oregon big leaf maple occupying the property.

Issues of Concern

This section discusses (a) general issues of concern, (b) issues in the SEPA appeal of the FEIS, and (c) issues of concern to PDS.

General Concerns

Many members of the public (individuals and organizations) have shared concerns relating to the proposed development via email and letters. Many comments were submitted during the comment period for the DEIS (Exhibit E.3) and many comments received since the DEIS comment period address similar issues. DEIS and subsequent similar comments that related to EIS topics of slopes and stormwater runoff have detailed responses in the FEIS (Exhibit E.5). This recommendation refers to the general comments received throughout the project as EIS topic concerns and general concerns, respectively, regardless of whether an individual comment was received before, during, or after the DEIS comment period. The FEIS includes generalize responses to many of general concerns that are outside the scope of the EIS.

EIS Topic Concerns

- Stability of slopes
- Stormwater runoff

Stability of slopes: The FEIS (Exhibit E.5) addresses general comments regarding slope stability are address on pages 2-32 to 2-33 and 2-43.

Stormwater runoff: The FEIS addresses general comments regarding stormwater runoff on page 2-20 and pages 2-112 to 2-113.

General Concerns

- Acreage issues
- Number of proposed lots

- Habitat preservation
- Adequacy of the existing road system
- Safety of school children walking to school
- Adequacy of road design for fire equipment access
- Questions about the project being vested to 2005 regulations rather than current requirements

Acreage issues: There is confusion regarding the total acreage of the site. This results from adding up the acreage of existing parcels and not including additional acreage for the unopened rights-of-way that will become part of the site through a road vacation. Including the unopened rights-of-way increases the total acreage. Road vacations occur by a separate action from preliminary plat approval. See transportation comments in Exhibit K.11, FEIS page 2-32 and Condition G.1.

Number of proposed lots: Several comments include concerns about the number of lots proposed. The FEIS discusses this issue in relation to a request for analysis of an alternative with fewer lots (FEIS pages 2-15 to 2-16). This recommendation also addresses the issue under PDS Issue #1 Interpretation of Policies, page 19, in the context of the regulations that allow the proposed number of lots. If PDS has correctly interpreted the policies, the application of regulations that allow the proposed 112 lots is correct. If PDS' interpretation of policy were incorrect, then other regulations would apply to the site.

Habitat preservation: Many comments include a general concern about habitat preservation. While outside the scope of the FEIS, there is discussion of this concern on pages 2-114 to 2-115 in the FEIS.

In addition to the FEIS response (Exhibit E.5), PDS notes that the Frogmal Proposal is a Planned Residential Development. The purpose of PRDs under SCC 30.42B.010 is to allow "creativity in site layout and design [that] protects critical areas through the use of open space" (SCC 30.42B.010(1)) and that encourages the "preservation of existing natural site features such as trees, topography, and geologic features" (SCC 30.42B.010(8)). These local steps, implemented through the PRD code, help to preserve onsite habitat compared with non-PRD development that might not include as much open space or preservation of natural site features. While development under PRD or other regulations inevitably reduces onsite habitat and alters natural features, development at this location would help satisfy the Growth Management Act direction to accommodate growth in the Urban Growth Area. Preventing development at this site would increase pressure to expand the UGA into rural areas, which may offer equally valuable habitat and natural features.

Adequacy of existing road system: The proposed development would increase traffic as documented in Exhibit C.2. FEIS discusses general concerns about traffic on pages 2-117 to 2-118. In addition, this staff recommendation notes that denial of a preliminary plat application a preliminary plat such as Frogmal Estates on the basis of traffic would require a determination that

that the project was not concurrent under Chapter 30.66B SCC. In other words, the roads affected by the project would need to fall below an acceptable level-of-service (LOS) resulting from project construction. It was determined that the transportation system was concurrent with the adopted LOS and could proceed (Exhibit K.10). Part of the concurrency determination is that the project must pay impact fees into a fund that improves roads in the general vicinity. See additional discussion under the review of *former* SCC 30.66B.120 and Condition F.3.

Safety of schoolchildren walking to school: Several comments express concern regarding traffic and safety concerns in front of both Picnic Point and Serene Lake Elementary schools, both of which are in the Mukilteo School District. The school district has commented that elementary students living at Frognal Estates would walk to Picnic Point Elementary and that busses would pick up middle and high school students (Exhibit H.3). Students living in Frognal Estates would not attend Serene Lake Elementary, but traffic would pass in front of the school (inferred from Exhibit C.2). As detailed in the review of *former* Section 30.42B.140, this recommendation includes three offsite pedestrian improvements on 60th Avenue West to promote safety of students walking to Picnic Point Elementary (see Condition G.2). Requiring sidewalk improvements in front of Serene Lake Elementary, while generally desirable, would not be proportionate to the mitigation of impacts from Frognal Estates because the absence of sidewalks there is an existing problem.

Fire equipment access: The Frognal Estates proposal is on a steep site. Some comments include concern about the ability of emergency vehicles to traverse the proposed roads during icy conditions. The applicant has requested, and received, a deviation from the typical road standard of a maximum 12% grade in favor of a 15% grade at two locations (see Exhibit G.4). This deviation includes the understanding that while “a 12 percent slope could be achieved ... that type of design would not provide for desirable landings for the intersecting private roads” (Exhibit G.4, page 1). The county engineer has reviewed the proposed road design and approved the design as being acceptable under Snohomish County Code, including the fire code.

Vesting to 2005 regulations: Following the landslide in Oso, many comments question the legitimacy of reviewing the Frognal Estates proposal under the landslide hazard regulations in effect in 2005. In Washington State, the concept of vesting is well established. Snohomish County regulations change frequently and it is important to maintain the predictability of review that comes from using the rules in effect at the time of complete project application. Submittal of the Frognal Estates proposal was on August 4, 2005. Following SCC 30.70.040, PDS determined the submittal to be complete as of that date. Because the Frognal Estates proposal met the submittal requirements in SCC 30.70.030, the submittal date is the vesting date for the project and environmental review per Chapter 30.61 SCC is according to the standard in effect at the time of submittal (SCC 30.70.040(4)). The limited scope EIS focuses on issues of grading and surface water, which are both factors in landslide hazards. Therefore, the completion of the environmental review was to the appropriate codes.

It is worth noting here that PDS also saw vesting as an issue of concern, but for different reasons. See discussion below regarding PDS Issue #2 Vesting starting on page 22. Appendix A, page 90,

identifies the codes in effect on August 4, 2005. The code sections cited in this recommendation are included in subsequent appendices by chapter. The language for *former* SCC 30.62.210 Landslide hazard areas is on page 130 in Appendix F.

SEPA Appeal

The Notice of Appeal of the FEIS (Exhibit L.1) received on October 2, 2015, provides six grounds for appealing the legal adequacy of the Froggnal Estates FEIS in Section 2. These grounds and Snohomish County's responses follow:

2.1 The FEIS fails to adequately disclose, discuss, and analyze the proposal's probable impacts and measures to sufficiently mitigate impacts upon surface and sub-surface drainage, slope and soil conditions, soil stability, landslide potential, wildlife habitat, water quality and fish habitat of Picnic Point Creek, including impacts upon listed species.

Snohomish County disagrees with this statement. The EIS discloses and discusses all of these issues, including analysis of probable impacts and mitigation measures. There is considerable analysis given to surface and sub-surface drainage, slope and soil conditions, soil stability, landslide potential and impacts to fish habitat in Picnic Point Creek. The only known listed species in the area for which there are requirements to protect habitat are salmon in Picnic Point Creek and there is discussion of these and associated water quality issues in the FEIS.

The only issues listed as grounds for appeal in 2.1 that receive just limited discussion and analysis in the FEIS are wildlife habitat in a general sense and listed species other than fish. Snohomish County Code does not require protection of general wildlife habitat, and yet approximately 5.1 acres of forest would remain on the site. Other than fish, no known listed species have been identified in the area.

2.2 The FEIS fails to disclose, discuss and assess the limitations, uncertainties and data gaps within its analysis of storm water drainage and infiltration, slope stability, impacts to salmonids within Picnic Point Creek, and it fails to include a worst case analysis.

The FEIS includes detailed discussion of stormwater drainage, infiltration, slope stability and impacts to salmonids in Picnic Point Creek. Qualified technical experts in their respective fields prepared the material in the FEIS. There is no specific standard for defining a "worst case" scenario in this context and Snohomish County agrees with the work of the experts who prepared the FEIS. Snohomish County notes that, among other things, the design of the drainage system must accommodate the peak discharge certain storm events. Under the codes the project is arguably vested to, this would mean a 25-year, 24-hour storm based on post-development site conditions (see *former* SCC 30.63A.200(3)(a) and *former* SCC 30.63A.210(1)). The applicant, however, has voluntarily chosen to design their drainage plan consistent with the newer

Minimum Requirements of *present-day* Chapter 30.63A, which are stricter. Among other things, Condition D.1 requires the applicant to meet the new Minimum Requirements.

2.3 The FEIS fails to consider an adequate range of alternatives that could accomplish the proposal's objectives, but at a lower level of environmental impact.

The FEIS considers a multi-family alternative that appears designed to comply with Snohomish County Code as it was in effect at the time of project submittal. As described in the FEIS, this alternative would have a lower level of environmental impact. Both the Frognal Estates PRD proposal and the multi-family alternative would have 112 units. To the extent that the proposal's objective is to build 112 units, the FEIS considers the appropriate range of options available under Snohomish County Code (i.e. single- and multi-family options).

2.4 The FEIS fails to adequately consider significant impacts upon the road system, vehicle and pedestrian safety, the elementary schools, fire safety and impacts upon other public services and facilities.

All of these issues are outside the scope of the EIS. The FEIS addresses them in the sections on responses to general comments and this staff recommendation addresses these issues in the context of the preliminary plat review.

2.5 The FEIS fails to consider cumulative impacts of the proposed action in conjunction with other developments within the Picnic Point drainage basin.

The FEIS is specific to the Frognal Estates project. Consideration of cumulative impacts occurs in the programmatic EIS work associated with the periodic updates to the Snohomish County Growth Management Act Comprehensive Plan. This includes an EIS issued in December 2005, updated in summer 2015. In both cases, Horseman's Trail/Frognal Estates was included as a pending development. This means that Horseman's Trail/Frognal Estates was combined with other anticipated development in the area for study of its contribution to overall growth and impacts to roads, services, and facilities.

2.6 The FEIS fails to disclose unmitigated significant adverse impacts that would result from development of this proposal.

The FEIS discloses a variety of significant impacts, discussing those in its scope in detail. Other impacts, such as cumulative impacts that are outside the scope of the FEIS, receive discussion in the FEIS as general comments. The FEIS also notes where additional information on topics that are outside the scope of the FEIS can be found; for example, in the Mukilteo School District Capital Facilities Plan.

Planning and Development Services (PDS) Concerns

PDS Issue #1 Interpretation of Policies

The Frogmal Estates applicants submitted their plans on August 4, 2005. This was a period when both pre- and post-Growth Management Act plans were effective. Most of this staff recommendation focuses on post-GMA regulations in effect at project submittal. Adoption of these regulations was mostly after the 1995 adoption of Snohomish County's first GMA Comprehensive Plan (or GMACP). Washington State adopted GMA in 1990. Frogmal Estates is also subject to the Paine Field Area Plan (PFAP), Exhibit K.5, which was in effect from August 4, 1983 to February 1, 2006.⁵

Review of projects submitted when both pre- and post-GMA plans were in effect must consider both sets of plans. Some GMA requirements are difficult to reconcile with the pre-GMA area plans. This section of this staff recommendation describes how PDS navigated the tension between policies in the pre-GMA PFAP and the codes adopted under the post-GMA GMACP.

PDS determined that the grading proposal associated with Frogmal Estates had the potential to cause significant adverse environmental impacts. PDS determined that a limited scope Environmental Impact Statement (EIS) would be required to address the Earth element of the environment, specifically to analyze the potential impacts of moving large amounts of earth (cuts and fills) on a site with steep slopes. Following receipt of comments during the EIS Scoping period, Snohomish County PDS expanded the scope of the EIS to include the Water element; specifically, to require a downstream analysis of the potential effects of Horseman's Trail/Frogmal Estates stormwater runoff on Picnic Point Creek, from the site to Puget Sound.

At the time of project application, the Paine Field Area Plan was still in effect. The PFAP includes a goal and several policies that are relevant to the Frogmal Estates site in the section on Environment and Resource Management. The goal reads:

Encourage urban development in the PFPA (Paine Field Planning Area) which is compatible with and sensitive to the elements of the natural physical environment **particularly on steep slopes**, wetlands, shorelines, and in stream corridors. (Paine Field Area Plan, page 83, emphasis added.)

In the PFAP, the Frogmal Estates site has a designation of Suburban (2-4 du/ac) with an Environmentally Sensitive Overlay for steep slopes (see Figure 6, page 11). Policies related to the goal above and the Environmentally Sensitive Overlay for steep slopes and downstream stormwater include I1, I8, and I9. These read:

⁵ Exhibit K.5 is actually an October 1983 version of the PFAP. This October revision was necessary after discovery of errors in the August version of the document. There were no subsequent revisions until repeal of the document. PDS is not aware of any extant copies of the August 1983 version, but does not believe that the errors corrected in 1983 would have any bearing on Frogmal Estates.

I1. In any area designated environmentally sensitive, urban development proposals should be carefully reviewed and appropriately conditioned to minimize impacts on the hydrologic system. Conditions may include 25-50 foot natural vegetation buffers, building setbacks, transfer of development potential to less sensitive areas, reductions in development intensity, storm water detention/retention systems, as necessary to maintain water quality, marine habitat, seasonal water levels and general aesthetic characteristic of lakes and Streams.

[...]

I8. Development should be avoided on steep slopes consistent with the **county's slope policy**. To the extent practical / development should be clustered in the more level portions of a property away from steep slope areas.

I9. Major modifications to the physical environment in **steeply sloping areas** of PFPA are to be avoided wherever possible. (Paine Field Area Plan, pages 83-84, emphasis added.)

The explanation of how PDS is interpreting the goal and policies from the PFAP addresses them in a different order than they appear in the PFAP to show a logical sequence of decisions. This recommendation begins with policy I8 before moving to policies I9 and I1, and then summarizing with the PDS interpretation of the goal for Environment and Resource Management.

Interpretation of PFAP Policy I8: The PFAP sought to protect steep slopes and areas potentially impacted by downstream stormwater runoff. These are the same issues addressed in the limited scope EIS for the Frogmal Estates proposal. By steep slopes, the PFAP means those areas “in excess of 15% [that] are associated with the bluffs overlooking Puget Sound” (Paine Field Area Plan, page 88). The PFAP also cites a Snohomish County Slope policy adopted on April 2, 1979, as the mechanism to control development and avoid slide hazards (ibid.)

The April 2, 1979, slope policy was no longer in effect by the time of the Frogmal Estates application in 2005.⁶ The successor regulation to which Frogmal Estates has vesting rights is *former* SCC 30.41A.250 (see Appendix D: Specific Code Sections Cited in *Chapter* 30.41A SCC). *Former* SCC 30.41A.250 Density for sloping land includes a table that limits density of development on slopes greater than 15%, but it also explicitly exempts Planned Residential Developments (PRD) from these limits (Frogmal Estates is a PRD).

⁶ The stated goal of the 1979 slope policy was “to protect the health, safety, and welfare of the citizenry and to guard the environment against unsafe and unnecessary degradation by implementing a policy regulating the development of certain sloping land.” The policy then went on to provide two methods for determining maximum lot density on slopes. The first method was a table that eventually became *Former* SCC 30.41A.250 (see Appendix D). The second method allowed for densities to be determined by “licensed professional that are experienced in land planning and engineering.” This second method has been codified by PRD regulations in Chapter 30.42B (for land planning) and in the critical areas regulations in *Former* Chapter 30.62 (including engineering of geologic hazards) (see Appendix F).

PRDs are a form of clustered development that did not exist at the time of the PFAP. In part, Snohomish County's PRD regulations are a response to requirements adopted by the state in 1990 as part of the Growth Management Act (GMA). Specifically, GMA calls for "innovative land use management techniques, including, but not limited to, density bonuses, cluster housing, and planned units developments" (RCW 36.70A.090). Planned Unit Development is another name for Planned Residential Development. Snohomish County's PRD codes allow density bonuses and clustering away from critical areas such as slopes. Therefore, PDS is interpreting the use of PRD development standards, consistent with *former* SCC 30.41A.250, as meeting the intent of PFAP policy I8.

Interpretation of PFAP Policy I9: Policy I9 says to avoid major modifications to the physical environment wherever possible. The amount of grading required for the Froggnal Estates proposal would clearly result in a major modification to the physical environment. To help explain the intent of policies such as I9, the PFAP states that:

The Environmentally Sensitive Area (ESA) designation does not automatically mean that property is undevelopable. Some of the designated lands may be undevelopable, other parcels may have reduced development potential, and a few may even be able to support full development potential based on the underlying comprehensive plan. In essence, the development potential of a parcel within the ESA designation will be decided on a case-by-case basis primarily on the impact of proposed development on the physical environment. If a proposal has serious negative implications for water quality, marine life and habitat, year around water levels or storm water runoff, which cannot be mitigated; then the project will be defined as having limited or no development potential. If, on the other hand, development can proceed with little or no adverse environmental impact, then the project will be defined as having moderate to high development potential.

In all cases, the burden of proof lies with the project proponent. It is the applicant's responsibility to show that development can proceed without significant adverse environmental impact. In reviewing potential impacts, the county will carefully consider cumulative impacts under the assumption that neighboring parcels have the same development potential as the proposed project all other things being equal. If the cumulative environmental impact is unacceptable, then proposed development must be modified or scaled down until it is compatible.

The environmentally sensitive designation means that all development proposals must comply with the State Environmental Policy Act (SEPA) statute. SEPA does identify some types of projects which are exempt from SEPA compliance. However, if projects are proposed for environmentally sensitive areas, there are very few exemptions. This designation will ensure that potential negative impacts and mitigating measures are considered during the development process for all development proposals in sensitive areas. (Paine Field Area Plan, page 92)

Put simply Policy I9 is not a prohibition on major modifications to the environment; rather, it is an admonishment not to do so. The mechanism for arbitrating whether a proposed action is acceptable under this policy is SEPA. A major part of the scope for the EIS on the Froggnal

Estates proposal directly addresses the proposed grading for the project. The EIS identifies mitigating measures for, and unavoidable impacts of, the Frognal Estates proposal.

Interpretation of PFAP Policy I1: Policy I1 calls for urban development to protect hydrologic systems and offers potential steps to mitigate impacts of urban development. As with policy I9, the EIS for the Frognal Estates proposal identifies many possible mitigation measures that this staff recommendation suggests as conditions for approval (see Preliminary Plat and PRD Official Site Plan Conditions beginning on page 78). PDS also notes that adoption of the GMA (1990) was subsequent to the PFAP (1983) and that GMA introduced a new concept of urban development, defining urban growth as making “intensive use of land” (RCW 36.70A.030(19)). This new definition introduced by GMA militates against one of the mitigation measures in Policy I1, which identifies “reductions in development intensity” as a possible mitigation measure.

Interpretation of Environment and Resource Management Goal: One of the goals of the PFAP is to “Encourage urban development ... which is compatible with ... steep slopes” and other elements of the natural environment (PFAP, page 83). Over time, Snohomish County adopted specific development regulations, such as setbacks from steep slopes, which provide greater protections than were in place at the time of the PFAP. Also during the period between PFAP adoption and the application for Frognal Estates, state law changed with the adoption of GMA. GMA introduced a new definition for urban development and new tools such as PRDs for achieving the sometimes-competing goals of increasing densities and protecting the environment. SEPA review is the arbiter for making recommendations on projects with complex environmental issues. Environmental review of the proposed development of Frognal Estates includes an EIS, and PDS views this EIS as adequately identifying steps to mitigate the impacts urban development at this site.

PDS Issue #2 Vesting

The submittal of a complete proposal for Frognal Estates on August 4, 2005, means the rules in effect on that date apply to review of the project. The term for this is “vesting.” Over the years, Snohomish County Code has changed and the applicant has submitted revisions to the project. Despite these subsequent actions, project-vesting means that the August 4, 2005, rules still apply to any revisions, unless specifically agreed to or required otherwise. The issue here is not so much with the project itself; rather, the issue is keeping track of what rules apply.

For a decade-old project such as Frognal Estates, it can be difficult to keep track of which rules apply. This Staff Recommendation addresses the issue by including several useful appendices. Appendix A is a table summarizing the code sections that apply to Frognal Estates and gives information on the version in effect on August 4, 2005 (see Figure 9, below). Electronic versions of this Staff Recommendation include hyperlinks to relevant materials online. Appendix B to Appendix K, give the applicable code language by chapter.

Many of the code sections that apply to Frogmal Estates are no longer in effect, except for the review of projects still vested to these rules. This staff recommendation refers to these as *former* code sections. For example, *former* SCC 30.41A.300 means the version of this section in effect on August 4, 2005. Where Appendix A gives the information on what version – i.e. ordinance number and effective dates – the various *former* SCC 30.41A.300 refers to (it has been modified several times), Appendix C includes the actual language of the relevant version of *former* SCC 30.41A.300.

Appendix A: Codes in Effect at Project Submittal on August 4, 2005 or Otherwise Cited in the Staff Recommendation

This table lists the codes cited in this Staff Recommendation and identifies which of the later appendices the effective code language can be found. *Effective code language is that which is found in the adopting ordinance.*

Snohomish County Code			Adopting Ordinance		Revising Ordinance	
Chapter	Section	Title	Number	Effective Date	Number	Effective Date
30.23	General Development Standards – Bulk Regulations (see Appendix B)					
	.020	Minimum net density for residential development in UGAs	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
30.25	General Development Standards – Landscaping (see Appendix C)					
	.010	Purpose	04-003	May 17, 2004	08-101	April 21, 2009
	.015	General landscaping standards	02-064	Feb. 1, 2003	07-084	Sept. 21, 2007
	.016	General tree retention and replacement	08-101	April 21, 2009	14-073	Oct. 27, 2014

Hyperlink to adopting ordinance, which includes original language

Hyperlink to revising ordinance, which includes findings explaining the reasons for change

Figure 9 – Excerpt from Appendix A

PDS Issue #3 Comments from the Tulalip Tribes

The Tulalip Tribes submitted a letter with an attached map on December 3, 2015, that expresses concern regarding the Frogmal Estates proposal (Exhibit H.14). As a federally recognized Indian Tribe that is party to the 1855 Treaty of Point Elliot, the Tulalip Tribes have rights to continue hunting and fishing in their traditional coastal waters and areas along the shoreline, which include the waters in the Picnic Point area. Habitat loss and degradation in terrestrial areas are a concern because they affect the marine resources protected by the treaty.

The letter continues:

“Picnic Point Creek is currently in a degraded state... [If Frogmal Estates] is approved the ability to restore stream ecology and juvenile Chinook rearing

habitat to a moderate level of health will be further eroded if not entirely lost... engineered solutions [such as the proposed stormwater and surface water management systems] do not function in the same way or provide the ecological benefits to the watershed and stream that the existing forested area does... The existing FEIS does not adequately assess or measure current stream and watershed health conditions which can be used to test its claim that the Froggnal estates development will have no adverse off site impacts, particularly the impacts to Puget Sound on the whole... The development of Froggnal Estates puts at jeopardy one of the only remaining coastal stream watersheds in the area with any potential for effective restoration and jeopardizes the health of the longevity of ESA listed juvenile Chinook rearing in the stream system.”

Snohomish County recognizes that some of the points in the letter are true but these are outside the standard for review of the Froggnal Estates preliminary plat proposal. Other claims in the letter use hyperbole to overstate the potential negative effects of Froggnal Estates. Compared to pre-development conditions, Picnic Point Creek is in a degraded state. However, as the map attached to the letter shows, Picnic Point Creek is less degraded than most of the nearby watersheds (Figure 10, next page). Even if one assumed that the entire net development area of Froggnal Estates were to become impervious, the increase of less than 18 acres of impervious surface in a 1300-acre watershed would only increase by amount of degraded habitat by a little over 1%. This would not change which category of degraded state Picnic Point Creek would appear as in the map attached to the Tulalip Tribes’ letter.

Snohomish County agrees that the proposed engineered solutions do not provide the same ecological functions that the existing forest cover does. However, this misses the point. The appropriate scale to evaluate protections of ecological functions is on a regional basis and not by specific development proposals. For example, the Froggnal Estates site is inside the Southwest Urban Growth Area. The last update to the countywide plan, including all of the UGAs, included analysis of watershed impacts in the programmatic EIS for the 2015 Update (adopted in June 2015). This review of allowed densities and policies affecting development inside the SWUGA would have been the appropriate time for the Tulalip Tribes to propose solutions to protect habitat. Absent new specific policy initiatives, the combination of critical area regulations and SEPA review are the standard to which Snohomish County adheres to implement State requirements to protect habitat and treaty rights.

Specific to the statement that the FEIS does not adequately assess impacts “to test its claim that the Froggnal estates development will have **no adverse off site impacts, particularly the impacts to Puget Sound on the whole**” (emphasis added), Snohomish County responds that the FEIS makes no such claims. The FEIS is scoped to assess impacts both on and offsite. It concludes that there are significant unavoidable impacts, “such as the minor increase in groundwater discharge to the off-site wetland and to Picnic Point Creek” (Exhibit E.5, page 1-31), for example. The standard of review is whether an EIS discloses probable significant adverse environmental impacts (RCW 43.21C.031), and the EIS discloses several unavoidable impacts as well as many mitigation measures to limit or avoid such impacts. The assertion that

the FEIS should evaluate impacts on Puget Sound as a whole is clearly hyperbole. If the effect of Froggnal Estates to Picnic Point Creek would be a further degradation of around only 1%, then the effect on the much larger Puget Sound would be negligible. It is not clear how a specific development proposal, consistent with GMA and SEPA requirements, would constitute an action jeopardizing Tribal Treaty rights.

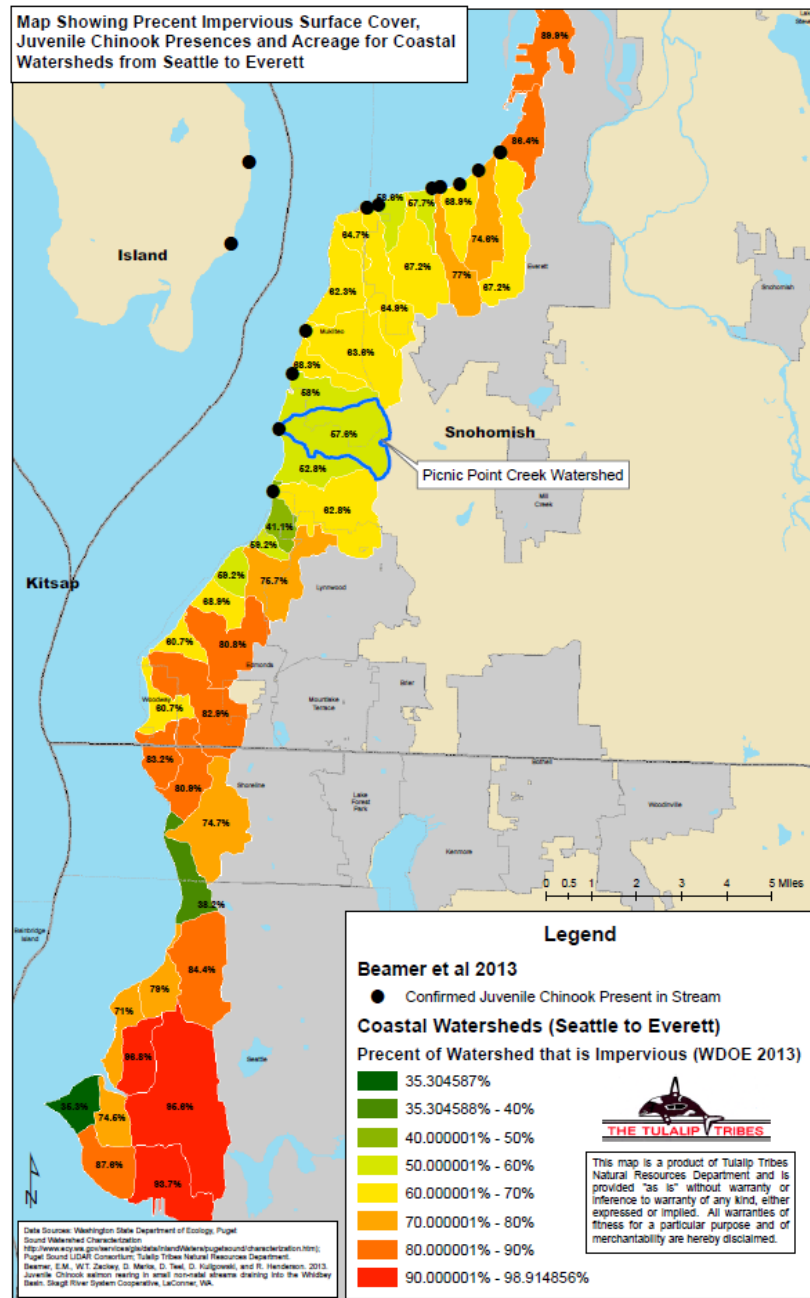


Figure 10 – Attachment to Exhibit H.14, Courtesy Tulalip Tribes

PDS Issue #4 Comments from Washington State Department of Ecology

The Washington Department of Ecology (or Ecology) submitted a letter on December 7, 2015, expressing concern “about indirect impacts to the off-site wetland and tributary of Picnic Point Creek” (Exhibit H.15). These are “considered waters of the state subject to applicable requirements of state law.” The letter suggests, “monitoring the effectiveness of TESC [Temporary Erosion and Sediment Controls] measures used on the slope” above the wetland to prevent sediment releases or a landslide on the slope due to changing stormwater infiltration patterns.

The Ecology letter is essentially a precautionary reminder of Ecology jurisdiction over waters of the state. In a follow-up conversation and email confirmation (Exhibit K.21), Ecology involvement would only be necessary under two scenarios: 1) if something went wrong during site development to impact the offsite wetland, or 2) if new previously unidentified wetlands were discovered onsite. In the absence of either of these scenarios, no specific authorizations from Ecology would be necessary.

PDS is recommending that the full drainage plan require TESC measures as suggested by Ecology (Condition D.1). Prior to construction, the contractor would need to obtain a National Pollution Discharge Elimination System (NPDES) Construction Stormwater Permit from Ecology (Condition D.7). Monitoring of the effectiveness of such measures shall occur during construction (Condition E.8).

PDS Issue #5 Miscellaneous Errors

The PRD Official Site Plan and Civil Plat Plan drawings (Exhibit B.1) contain a number of minor errors and have some obsolete information. The recommended preconditions and conditions identify known errors that need correction and places where updating obsolete information is necessary. There is discussion of most of the minor errors and obsolete information in the following review of specific code sections. However, as shown on Figure 11, next page, there are a handful of non-code issues appearing on Sheet P1 of Exhibit B.1, the PRD Official site plan. Per recommended Precondition B.1, the applicant will need to make the corrections and updates under the headings Project Information and Legal Description to address:

- a. A boundary line adjustment that has been completed;
- b. The comprehensive plan designations in effect at the time of complete application;
- c. Removal of Regatta Estates Lot 74 from the proposed action; and
- d. Other project information that may need recalculation after addressing subsequent comments on the PRD Official Site Plan (Exhibit B.1).

PROJECT INFORMATION

Tax Parcel Numbers 00473300002701, 00473300002800, 00853500000100, ~~(280433000201200BLA)~~ **Strike BLA reference because it is now complete**

WEST (00473300002701, 00473300002800)
Existing Area 615,765 sf (14.136 acres)
Area* 648,388 sf (14.885 acres)
Comp. Plan Desig. ULDR (4-6 DU/Acre) **and UMDR (6-12 DU/Acre)**
Existing Zoning R-9,600
Existing Land Use Undeveloped (Vacant) Land

EAST (00853500000100)
Existing Area 312,325 sf (7.170 acres)
Area* 324,632 sf (7.453 acres)
Comp. Plan Desig. ULDR (4-6 DU/Acre) **and UMDR (6-12 DU/Acre)**
Existing Zoning R-8400
Existing Land Use Undeveloped (Vacant) Land

Total Area* 973,020 sf (22.337 acres)
Proposed Land Use PRD

Number of Lots 112 SFR
Average Lot Size 4,313 sf
Smallest Lot 3,587 sf
Gross Lot Density 5.01 Lots/Ac

*Area ~~After BLA~~, Right of Way Abandonments and Dedications

These may need to be recalculated after other comments

Per comprehensive plan in effect at time of application

LEGAL DESCRIPTION

PARCEL A:
EAST HALF OF TRACT 27, HILLMAN'S NORTH SEATTLE-PUGET SOUND FRONT MEADOWDALE ADDITION, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 5 OF PLATS, PAGE 39, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

PARCEL B:
TRACT 28, HILLMAN'S NORTH SEATTLE-PUGET SOUND FRONT MEADOWDALE ADDITION, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 5 OF PLATS, PAGE 39, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

PARCEL C:
~~LOTS 1 AND 74, REGATTA ESTATES ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 61 OF PLATS, PAGES 9 THROUGH 16, INCLUSIVE, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.~~ **Lot 74 is no longer part of the proposal**

~~PARCEL D:
THE NORTH 300 FEET OF LOT 1, SNOHOMISH COUNTY SHORT PLAT NUMBER SP-93(3-80) RECORDED UNDER AUDITOR'S FILE NUMBER 8005010187, RECORDS OF SNOHOMISH COUNTY, WASHINGTON;
EXCEPT THE WEST 15 FEET THEREOF DEEDED TO SNOHOMISH COUNTY UNDER AUDITORS FILE NUMBER 8801140217~~

ALL SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

A BLA has been recorded making this "Parcel D" area part of a revised Parcel C. Revise Parcel C language accordingly.

Figure 11 – Changes needed on Sheet P1 of Exhibit B.1

Project Consistency with Adopted Codes and Policies

General Zoning Standards

SCC 30.22 Uses Allowed in Zones

The land use category of “Dwelling, single family” is a permitted use in the R-8,400 and R-9,600 zones (SCC 30.22.100), in all versions of this section.

Former SCC 30.23.020 Minimum Net Density

Frognal Estates is subject to a minimum net density requirement of four dwelling units per net acre (du/ac). Frognal Estates proposes a net density of 10.75 du/ac. It is not subject to the minimum lot size in *former* SCC 30.23.020(4) because it is a Planned Residential Development. Likewise by using the PRD regulations, Frognal Estates is not subject to the density limits on steep slopes referenced in *former* SCC 30.23.020(5)(b) (see the detailed discussion of this issue under the heading PDS Issue #1 Interpretation of Policies on page 19).

Frognal Estates meets the minimum density requirement of former SCC 30.23.020. As Figure 12 below shows, however, some corrections are necessary to the net density calculations on the submittal drawings (Exhibit B.1). Even with these corrections, the net density of 10.75 du/ac will stay the same. Recommended Precondition B.4 includes direction to correct for this error.

Landslide Hazard Areas and undisturbed Erosion Hazard Areas are critical areas. Therefore, the amount of critical area cannot be zero square feet. PDS has estimated that about 200,000 sq ft of Tracts 995 to 999 should be accounted for here as critical areas rather than as Public Use.

MINIMUM NET DENSITY per SCC 30.23.020					
Gross Site Area	973,020	sf	(22.337	ac)	100.0%
Less Road R/W and Tract 994	140,214	sf	(3.219	ac)	14.4%
Less Critical areas (none)	0	sf	(0.000	ac)	0.0%
Less Area for Public use (Tracts 999–995)	379,095	sf	(8.703	ac)	39.0%
Net Site Area =	453,711	sf	(8.703	ac)	45.6%
Net Density =	112 units	/ 10.416 ac = 10.75 DU/acre			

This should read 10.416 ac as suggested on the line below (453,711 sq ft = 10.416 ac).

Figure 12 – Necessary Net Density Calculation Corrections (Exhibit B.1, Sheet P2)

Allowed number of dwelling units, Building Setbacks and Lot Coverage

See discussion under review of Planned Residential Development (Chapter 30.42B SCC) beginning on page 35.

Building Height (Chapter 30.23 SCC)

Per Table SCC 30.23.032, maximum building height in the R-8,400 and R-9,600 zones is 30 feet. The homes proposed are all two stories and will be below the maximum building height.

Access (former Chapter 30.24 SCC)

Former Chapter 30.24 SCC⁷ outlines the access requirements. There will be two entrances into the plat: one from 58th Place West/Picnic Point Road to the east and one at 60th Avenue West to the south. Frogna Estates would include the construction of new public roads in the development that will provide direct access to 97 of the lots. The one private road proposed would provide access to 15 of the lots. The proposal includes right-of-way improvements consisting of curb, gutter and sidewalk along the property's 60th Avenue West road frontage. New roads will also provide curb, gutter and sidewalk. The application includes a deviation request, subsequently granted, allowing the internal trail system to substitute for a portion of the typically required sidewalk (see Exhibit G.2).

Landscaping (Chapter 30.25 SCC)

The basic landscaping requirements are in Chapter 30.25 SCC. Additional landscape requirements appear under Chapter 30.42B - Planned Residential Development. The landscape plan (Exhibit B.3, Sheets L1 to L9) generally complies with the provisions in Chapter 30.25 SCC, but there are some errors and omissions in the landscape plan as submitted. Precondition C of this staff recommendation is included to address errors and omissions in the landscape plan, thereby bringing the landscape plan into compliance with Snohomish County Code. Highlights from Chapter 30.25 SCC are below:

See Appendix A: Codes in Effect at Project Submittal on August 4, 2005 for legislative history and Appendix C: Selected Sections from Chapter 30.25 SCC General Development Standards – Landscaping for code language used for this review.

***Former* SCC 30.25.015 General landscaping requirements**

The proposed landscape plan (Exhibit B.1, Sheets L1 to L9) was prepared by qualified landscape designer and in compliance with *former* Chapter 30.25. Landscaping must cover at least 10% of

⁷ Chapter 30.24 SCC still describes the access and road network requirements. This discussion refers to *former* Chapter 30.24 SCC because of an ordinance to repeal and readopt the chapter in 2012. The majority of changes in 2012 were formatting and organizational in nature.

the site per SCC 30.25.015(1). The site is 973,020 square feet in size; therefore, 97,302 square feet of total landscaping is required. The landscape plan submitted does not provide area calculations, but since tree canopy areas retained count as landscaping and the open space tracts alone more than 35.8% the site (Exhibit B.1, Sheet P2), the plans submitted would exceed the 10% requirement. Precondition C.2 requires an update to the landscape plans include area calculations so that it is clear where and how the plans comply with Snohomish County Code.

The applicable landscaping requirements of included a statement that “new evergreen and deciduous trees shall be at least **eight feet high** at time of planting” (*former* SCC 30.25.015(5)(a), emphasis added). The proposed landscaping plan shows trees of only six feet in height (see Figure 13, below). This proposal is inconsistent with the applicable code. The FEIS identifies the size of new trees as a potential mitigation measure to address stormwater runoff and lack of infiltration (Exhibit E-5, page 1-26). The FEIS identifies the potential mitigation measure of new trees as being six feet tall under the heading “Applicable Regulations.” This appears to be an error in the FEIS. The applicable regulation is to plant eight-foot trees. Whether the FEIS error was in repeating a mistake in the heights shown on the landscaping plan, or in using *present-day* SCC 30.25.015(5) (which allows six-foot trees), trees of the required eight foot height will absorb and evaporate more stormwater than smaller six-foot trees. Therefore, to improve on the mitigation proposed in the FEIS and to comply with the applicable code, the applicant must revise the Landscape Planting Schedule to reflect the required eight-foot trees. See Precondition C.4.

LANDSCAPE PLANTING SCHEDULE				
TREES				
SYMBOL	QTY	BOTANICAL / COMMON NAME	SIZE	CONDITION
	173	<i>Acer circinatum</i> / VINE MAPLE	6" MIN. HT.	B&B, 10' O.C.
	101	<i>Acer rubrum</i> 'Bowhall' / BOWHALL RED MAPLE	2" CAL.	B&B, 30' O.C. BRANCHED @ 6" HT.
	34	<i>Betula jacquemontii</i> / JACKMONTI BIRCH	1 3/4" CAL.	B&B, 30' O.C. BRANCHED @ 6" HT.
	171	<i>Crataegus phaenopyrum</i> / WASHINGTON THORN	1 3/4" CAL.	B&B, 30' O.C. BRANCHED @ 6" HT.
	13	<i>Fraxinus latifolia</i> / OREGON ASH	1 3/4" CAL.	B&B, 30' O.C. BRANCHED @ 6" HT.
	46	<i>Fraxinus o.</i> 'Raywood' / RAYWOOD ASH	2" CAL.	B&B, 30' O.C. BRANCHED @ 6" HT.
	109	<i>Malus fusca</i> / PACIFIC CRABAPPLE	1 3/4" CAL.	B&B, 30' O.C. BRANCHED @ 6" HT.
	80	<i>Pyrus calleryana</i> 'Chanticleer' / FL. PEAR	2" CAL.	B&B, 30' O.C. BRANCHED @ 6" HT.
	14	<i>Picea sitchensis</i> / SITKA SPRUCE	6" MIN. HT.	B&B, 10' O.C.
	97	<i>Pinus contorta</i> / SHORE PINE	6" MIN. HT.	B&B, 10' O.C.
	99	<i>Pseudotsuga menziesii</i> / DOUGLAS FIR	6" MIN. HT.	B&B, 10' O.C.
	267	<i>Thuja plicata</i> / WESTERN RED CEDAR	6" MIN. HT.	B&B, 10' O.C.

Figure 13 – Landscape Planting Schedule Adapted from Sheet L1, Exhibit B.3

Former SCC 30.25.016 General tree retention and replacement requirements

Adoption of this section of code took place in 2009. There were no equivalent tree retention and replacement codes in effect at the time of submission for Froggnal Estates in 2005. This section does not apply to the review of a proposed preliminary plat, except that certain conditions for preliminary plat approval may cite it as authority to require the conditions. Such conditions would apply at the stage of construction drawings for landscaping.

Froggnal Estates is required to include a significant tree retention plan per *former* Section 30.42B.130 – Design Criteria – Tree Retention (see Condition C.3). The FEIS identifies the potential for trees to be subject to windthrow, especially in perimeter tracts where existing stands will be thinned and remaining trees may be weakened (FEIS (Exhibit E.5), page 1-27). To mitigate the risk of windthrow, there needs to be a mechanism to allow a certified arborist to evaluate trees from the significant tree retention plan for removal as hazard trees and to show these trees removed on the construction plans. Because maintaining a tree canopy is important to help absorb and evaporate surface water, a tree replacement schedule and other guidance is necessary for determining how to handle removal of significant, but hazardous, trees and to replace them on the construction plans. *Former* SCC 30.25.016 was adopted, in part, to fill this need. A subsequent revision in 2014 that is still in effect was part of an overall tree canopy monitoring program that would not apply to Froggnal Estates. Therefore, PDS finds that *former* SCC 30.25.016 provides the most appropriate mechanism for replacing significant trees that are determined to be hazardous. See Condition D.1.1.

Former SCC 30.25.020 Perimeter landscaping requirements

Under *former* SCC 30.25.020(1), a 15-foot wide Type A landscape buffer is required adjacent to residential lots. Tract 999 provides at least 20 feet of such buffer in areas adjacent to residential lots. In areas along a public road frontage, 10 feet of Type B landscaping is required (*former* SCC 30.25.020(4)(a)). The landscape plan meets this requirement.

Former SCC 30.25.023 Stormwater flow control or treatment facility landscaping

Regulation of vegetation and landscaping around stormwater treatment facilities is by Chapter 30.63A SCC (Drainage). The current version of Chapter 30.63A SCC, including the 2010 Drainage Manual applies to Froggnal Estates. See discussion under drainage and grading for more details.

Former SCC 30.25.043 Landscaping installation

Per to this code section, a qualified landscape designer must provide certification that the installation of landscaping has been per the approved plans prior to final approval of building permits for homes. See Conditions D.1.o and I.1.

Subdivisions (Chapter 30.41A SCC)

Chapter 30.41A SCC describes the general requirements and process for all types of subdivisions. Many of the specific requirements applicable to Frognal Estates are in the review of Chapter 30.42B SCC Planned Residential Development. Frognal Estates is a PRD, which required approval of an official site plan.

Former SCC 30.41A.100, General Decision Criteria for Subdivisions

This section describes five general criteria for the Hearing Examiner decision on the preliminary plat application. The first criterion reads:

The hearing examiner and the department shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. The hearing examiner shall approve a preliminary subdivision only if appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, sites for schools and school grounds, fire protection and other public facilities. The hearing examiner shall consider all other relevant facts, including the physical characteristics of the site and sidewalks and other planning features that assure safe walking conditions for students who walk to and from school to determine whether the public interest will be served by the subdivision and dedication. (*Former SCC 30.41A.100(1)*)

PDS notes that the Frognal Estates proposal, as modified by the conditions proposed herein, would meet this criterion. The proposed lots will be outside of all flood hazard areas and will not be subject to flood, inundation or swamp conditions. The proposed plat will conform to applicable zoning codes and the comprehensive plan. As conditioned, the plat will meet design standards for roads, storm drainage, landscaping, critical areas and fire protection. There is open space within the plat in the form of open space tracts. Confirmation of availability of water, sewer and electrical service to the project has been obtained from the respective local utility purveyors (Exhibits H.2 and H.10). The Snohomish Health District does not object to the proposal (Exhibit H.9). Impact fees would be paid for roads (Condition F.3), parks (Condition F.2), and schools (Condition F.4). The proposal includes open spaces and recreation facilities on site, adequate public roads, and a design that meets fire protection requirements. This staff recommendation also proposes offsite pedestrian improvements at three places along 60th Avenue West to assure safe walking conditions for students (Condition G.2).

The second general criterion for Hearing Examiner decision reads:

If the hearing examiner finds that the proposed preliminary subdivision makes appropriate provisions for the matters listed in SCC 30.41A.100(1) and enters written findings that the subdivision conforms to all applicable development regulations and construction codes, then it shall be approved. If the hearing examiner finds that the proposed subdivision does not make such appropriate

provisions or that development regulations requirements are not met, or the public use and interest will not be served, then the hearing examiner may deny the proposed preliminary subdivision. (*Former* SCC 30.41A.100(2))

PDS finds that the proposed preliminary subdivision, as modified by the preconditions herein, would meet the appropriate measures listed in *former* SCC 30.41A.100(1). If the Hearing Examiner concurs, then the preliminary subdivision shall be approved per *former* SCC 30.41A.100(2).

The third general criterion for Hearing Examiner decision reads:

Dedication of land or payment of fees to any public body may be required as a condition of preliminary subdivision approval. Evidence of such dedication and/or payment shall accompany final subdivision approval. (*Former* SCC 30.41A.100(3))

Impact fees would be paid for roads (Condition F.3), parks (Condition F.2), and schools (Condition F.4). Therefore, Froggnal Estates will meet this criterion at final subdivision approval.

Criterion (4) relating to release from damages and Criterion (5) the right to practice forestry and to farm do not apply to the Froggnal Estates proposal.

30.41A.180 – See review of *former* SCC 30.23.020

***Former* SCC 30.41A.250 Density for sloping land.**

Portions of the Froggnal Estates site is considered sloping land per *former* SCC 30.41A.250(1). However, the site is exempt from the residential density for sloping land limits in *former* Table 30.41A.250(2) SCC because it is a planned residential development as allowed for in *former* SCC 30.41A.250(2).

Former SCC 30.41A.250(3) allows the department to “require engineering or other technical justification for development in sloped areas where it determines that the public health, safety, welfare, or environment may be jeopardized by the proposed development.” The EIS for the project (Exhibits E.4 and E.5) and associated technical reports used to develop the EIS (Exhibits K.15 to K.19) represent the engineering and other technical justification because the project was determined to propose a significant risk to the public health, safety, welfare, or environment (Exhibit E.2).

There is also discussion of this former code section under *PDS Issue #1, Interpretation of policies*, page 19.

SCC 30.41A.700 Subdivision alteration.

The Frognal Estates proposal would include an alteration of Lot 1 of Regatta Estates. This means that the applicant must record alteration to the plat of Regatta Estates per SCC 30.41A.700 as a precondition of approval for Frognal Estates (see Precondition A). Specifically, this plat alteration must accomplish the following:

- a. Removal of Restriction No. 9, which related to the treatment of Lot 1 until further;
- b. Any ownership interest owner (or owners) of Lot 1 of Regatta Estates has (have) in Tracts 986 through 990 and 992 through 997 of Regatta Estates shall be diluted based on the number of new lots created on Lot 1 of Regatta Estates.

PDS has two relevant observations regarding the process for subdivision alteration (SCC 30.41A.710). Relating to SCC 30.41A.710(1), the applicant for Frognal Estates is the sole owner of Lot 1 of Regatta Estates. Relating to SCC 30.41A.710(2), the covenants for Regatta Estates specifically anticipate future resubdivision of Lot 1, and there is no restriction preventing resubdivision. Therefore, the applicant for Frognal Estates is the only party whose signature is necessary on a plat alteration of Regatta Estates to accomplish the development of Frognal Estates.

Planned Residential Development (Chapter 30.42B SCC)

This proposal is subject to the Planned Residential Development (PRD) code provisions in effect when the application was deemed complete on August 4, 2005 and has been reviewed for conformance with this version of Chapter 30.42B SCC as follows:

Former SCC 30.42B.020 – Applicability

This section allows PRDs in the R-8,400 and R-9,600 zones (*former SCC 30.42B.020(1)*).

The density proposed is consistent with the land use designation identified in the comprehensive plan of Urban Low Density Residential and Urban Medium Density Residential (*former SCC 30.42B.020(4)*).

Former SCC 30.42B.040(2) - Unit yield and bonus.

PRD unit yields are calculated per *former SCC 30.42B.040(2)*. Before analyzing potential unit yield under this code, several caveats are in order.

- The area with R-8,400 zoning is also subject to the Possession Shores Master Plan and contract rezone. These allow a different yield calculation than what appears here; see Maximum Number of Lots Allowable under the Land Use History section of this staff recommendation for how the potential yield calculation per the contract rezone.
- The site includes a landslide hazard area – which is a type of critical area – within proposed Tract 999; however, there is no calculation provided in the applicant submittal for how much of this tract is in the landslide hazard area. Further, as discussed in the review for *former* Chapter 30.62 SCC, parts of many of the other open space tracts are also critical areas and need classification as NGPAs because they are undisturbed erosion hazard areas.
- One of the items in the recommended list of preconditions is to revise the project drawings to identify a landslide hazard area easement within Tract 999 so that the calculations per *former SCC 30.42B.040* can be completed correctly. See Precondition B.2.
- One of the items in the recommended list of conditions is to revise the project drawings to identify erosion hazard areas as easements within their respective tracts so that the calculations per *former SCC 30.42B.040* can be completed correctly. See Precondition B.2.
- The review of *former SCC 30.42B.040(3)* includes estimates produced by PDS for the missing landslide and erosion hazard areas. These estimates demonstrate general project

consistency with that section and are not substitutes for the information required in this section or proposed as conditions of approval.

A step-by-step illustration of how the calculations for *former* SCC 30.42B.040 should work follows:

Net Development Area in former SCC 30.42B.040(2)(a)

Gross Site Area	=973,020 square feet (22.34 acres)
Minus critical areas and buffers	= <i>[To be determined]</i> square feet
Minus lakes and ponds	=0 square feet
Net Development Area	= <i>[Need critical areas data for calculation]</i>

Unit yield on net development area per former SCC 30.42B.040(2)(b)

Net Development Area *[Needs data]* square feet) divided by 8,400 = *XX.XX* units
 Net Development Area *[Needs data]* square feet) divided by 9,600 = *XX.XX* units

Unit yield on critical areas per former SCC 30.42B.040(2)(c)

Divide critical areas and buffer (*[Needs data]*) by 8,400 = *XX.XX* units
 Divide critical areas and buffer (*[Needs data]*) by 9,600 = *XX.XX* units

Add unit yields from net development area and critical areas per former SCC 30.42.040(2)(d)

add the combined numerical unit results of (2)(b), *XX.X* and (2)(c), 0 = *XXX.XX* and multiply by 1.2
 = *XXX* Unit Yield (127 units allowed). One hundred twelve (112) units are proposed.

Alternative calculation: Despite the missing critical area in Exhibit B.1, in a mathematical sense separate calculations for *former* SCC 30.42B.040(2)(b) and (2)(c) are not necessary for deriving the unit yield under (2)(d). This is because the version of the PRD code in effect at the time allows 100% yield on critical areas (the formatting for the code was set up for a time when this was not the case). In other words, an alternative calculation is possible that arrives at the same conclusion appears in Table 2 below. It is important to note that this alternative calculation is for discussion purposes in this Staff Recommendation; the missing landslide hazard and erosion hazard critical area information is still required to make the intermediate yield calculations required by Snohomish County Code.

Zoning	Gross Area (after right-of-way abandonments and dedications) (square feet)	Divide Gross Area by	Potential Base Yield (units)	Potential PRD Yield with 20% bonus (units)
R-8400	324,632	8,400	38.65	46.38
R-9600	648,388	9,600	67.54	81.05
Total			106.19	127.42

Table 2 – Potential PRD Lot Yield

Figure 14, below , shows where the error on Exhibit B.1, Sheet P2, occurs and how to fix it.

Landslide Hazard Areas and undisturbed Erosion Hazard Areas are both critical areas that must be shown as NGPAs. Therefore, the amount of critical areas cannot be zero square feet.

UNIT YIELD AND BONUS per SCC 30.42B.040			
WEST	(00473300002701, 00473300002800)		
Gross Site Area	648,388 sf	(14.885 ac)	100.0%
Less NGPA and critical areas	0 sf	(0.000 ac)	0.0%
Net Development Area	648,388 sf	(14.885 ac)	100.0%
/ Min Lot Area for R-9600	9,600 sf		
Unit yield	67.5 units		
x 1.2 factor			
Maximum Dwelling Units	81.0 units		
Proposed Units	76 units		
Density check (max 9)=	76 units /	14.885 ac =	5.11 DU/acre
Recalculate			
EAST	(00853500000100)		
Gross Site Area	324,632 sf	(7.453 ac)	100.0%
Less NGPA and critical areas	0 sf	(0.000 ac)	0.0%
Net Development Area	324,632 sf	(7.453 ac)	100.0%
/ Min Lot Area for R-8400	8,400 sf		
Unit yield	38.6 units		
x 1.2 factor	1.2		
Maximum Dwelling Units	46.4 units		
Proposed Units	36 units		
Density check (max 9) =	36 units /	7.453 ac =	4.83 DU/acre

Same comments as for the west area calculations

Add totals for the entire project

Figure 14 – Comments on Unit Yield and Bonus Table from Exhibit B.1, Sheet P2

Former SCC 30.42B.040(3)

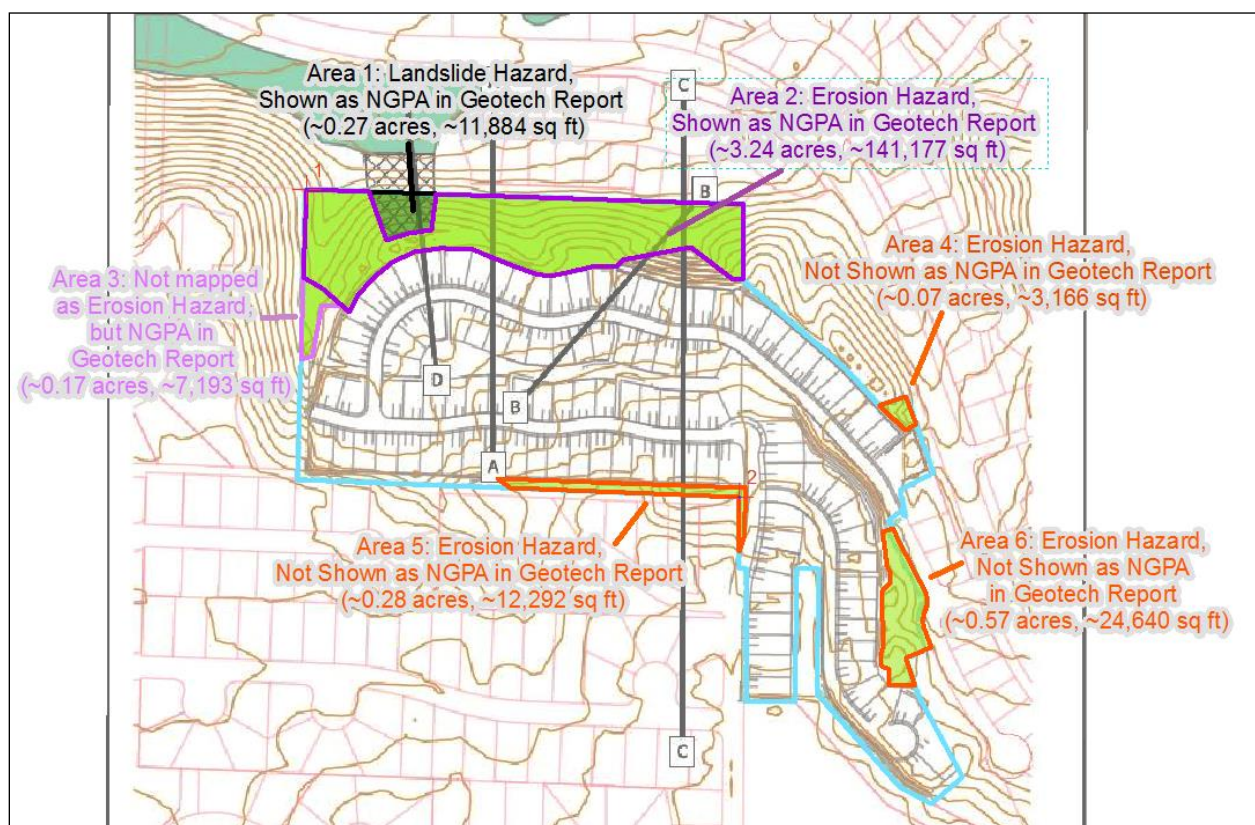
The subsection that calculates a maximum yield on the net development area read follows:

In the R-7,200, R-8,400, and R-9,600 zones, the maximum number of dwelling units allowed pursuant to SCC 30.42B.040(2) shall be reduced so that the maximum net density (number of dwelling units per net acre in the **net development area**) does not exceed nine dwelling units per net acre. Except that, a maximum net density of 12 dwelling units per net acre is allowed when the PRD is accepted in the reduced drainage discharge housing demonstration program in chapter 30.34B SCC. (*Former SCC 30.42B.040(3), emphasis added.*)

The proposed action is not a reduced drainage discharge housing demonstration project, therefore, the maximum number of dwelling units in the R-8,400 and R-9,600 zones shall be nine du/net development acre. The net development area refers to *former* SCC 30.42B.040(2)(a).

The PRD Official Site Plan (Exhibit B.1) is required to have the necessary information to make the calculations required by *former* SCC 30.42B.040(3). There is an attempt to perform this calculation on Sheet P2; however, it is in error because it incorrectly states that there are no critical areas on site (see discussion at *former* SCC 30.62.200 and *former* SCC 30.62.210).

For the purpose of reviewing *former* SCC 30.42B.040(3), PDS has estimated the total critical area as including the landslide hazard area, undisturbed erosion hazard areas, and an area not mapped as erosion hazard but which was identified in the geotechnical report as being NGPA (See Figure 15, below). PDS' estimate works to 200,252 square feet (4.60 acres) of NGPA that will need to appear on an updated Exhibit B.1 (see Precondition B.2).



**Figure 15 – Required NGPA Areas as Estimated by PDS
(Overlaid on Figure 7-1 of Exhibit C.18)**

The estimate of critical areas in Figure 15 – Required NGPA Areas as Estimated by PDS, above, and density calculations, below, by PDS is for rough evaluation of the preliminary plat proposal only. It is not a final identification and calculation of critical areas.

As required by Precondition B.2 the resubmitted PRD Official Site Plan must clearly delineate NGPA tracts and easements, and recalculate densities per *former* SCC 30.42B.040 correctly.

Net Development Former SCC 30.42B.040 (2)(a)

Gross Site Area	=973,020 square feet (22.34 acres)
Minus critical areas and buffers	=200,352 square feet (Estimated by PDS)
Minus lakes and ponds	=0 square feet
Net Development Area	=772,668 square feet (Estimated by PDS)
Net Development Area (acres)	=17.74 (Estimated by PDS)
Net Density per former SCC 30.42B.040(3)	=6.31 (Estimated by PDS)

In other words, the proposed action, as estimated by PDS, is below the maximum nine dwelling units per net development acre in SCC 30.42B.040.

Former SCC 30.42B.100 - Design criteria - General.

The application complies with all of the general design criteria. All applicable requirements of the underlying zone apply to this project. An application for a preliminary subdivision accompanies this PRD and the applicant has appropriately proposed the construction of single-family dwellings in the R-8,400 and R-9,600 zones.

Former SCC 30.42B.115 - Design criteria – Open Space

Former SCC 30.42B.115 has three subsections: (1) Total Open Space, (2) Useable Open Space, and (3) Active Recreation Use.

(1) Total Open Space: A minimum of 20% of the gross site area is required to be dedicated for total open space. For this project 194,604 square feet (4.47 acres) of open space, is required. The total open space proposed is 348,542 square feet (8.00 acres) in Tracts 995 to 999.

Total open space will be permanently established in clearly designated separate tracts. The tracts in this development will be owned by all lot owners per SCC 30.42B.115(1)(e)(iii). Required covenants, conditions and restrictions will be recorded to provide for maintenance of the total open space in a manner that will assure its continued use as approved (see Condition G.6.b).

(2) Useable Open Space: Total open space must contain a useable open space component for active and/or passive recreation purposes. The requirement is to have at least 600 square feet per dwelling unit. This cannot include critical areas and their buffers or existing utility easements. The minimum requirement for Froggnal Estates is 67,200 square feet (112 units x 600 square feet per unit). The applicant proposes to provide 137,041 square feet (3.15 acres) within Tracts 995 to 998.

"40% (26,880 square feet) of the required usable open space shall be located in a single open space tract or permanent easement." Tract 995 contains 41,205 square feet of on-site recreation space.

(3) Active Recreation Use: 30%, or 20,160 square feet, of the required on-site recreation space is to be developed for active recreation uses. The applicant is providing 41,205 square feet within Tract 995 for a trails and a gazebo.

(3)(d) “The active recreation facility shall be located on a reasonably level site with slopes no greater than six percent unless the applicant can demonstrate that the recreation facility can function adequately on greater slopes”.

Some of Tract 995 has slopes under 6% and some of the tract has slopes exceeding 6%. The applicant submittal does not include enough information to determine whether the proposal meets this criterion. Condition B.6 asks the applicant to provide information sufficient to evaluate this criterion. Such information could include either (a) enough information to determine that (3)(d) has been met; (b) an adequate explanation of how the facility functions on slopes greater than 6%; or (c) a modified proposal for Tract 995 that meets the requirement in (3)(d).

Former SCC 30.42B.125 – Design Criteria – Landscaping

In addition to the general landscaping provisions in Chapter 30.25 SCC, Planned Residential Developments had supplemental landscaping requirements in *former* SCC 30.42B.125 that apply to the Froggnal Estates proposal because it is vested to these former regulations.

(1) Usable Open Space: The landscaping of all useable open space tracts is appropriate to the proposed uses.

(2) Drainage Detention Facilities: This subsection is not applicable because the proposal would have all detention facilities in underground vaults.

(3) Site Perimeter Landscaping: The proposal includes site perimeter landscaping in tracts. Some of tracts (or portions of tracts) are native growth protection areas that exceed the landscaping requirements, and portions of the perimeter are tracts are solely landscaping areas meet or exceed the perimeter landscaping requirements.

(4) Streetscape landscaping: The proposed landscaping plan provides the required landscaping along rights-of-way.

(5) Installation and maintenance of landscaping: To ensure ongoing maintenance of the landscaping, the submittal of a bond or other guarantee of performance will be required, prior to occupancy of any unit, per the requirements of county code. See Condition G.10.

(6) Irrigation: The landscaping plan includes sufficient information about proposed irrigation needs.

(7) and (8) Do not apply.

(9) Species: The proposed landscape species are acceptable.

(10) Modifications: No landscape modifications are proposed.

Former Section 30.42B.130 – Design Criteria – Tree Retention

(1) Retaining trees in open space areas is required, except for the where active recreation is proposed. The landscaping plan shows tree retention in the non-recreation open space areas.

(2) The landscaping plan must include survey of significant trees outside critical areas and their required buffers. The landscaping plan omits this survey. Inclusion of the survey of significant trees would be required under Precondition C.3 in order for the preliminary plat to receive approval.

(3) to (7) Do not apply.

(8) No clearing of the site shall be allowed until a significant tree retention plan is approved. The project application does not include such a plan. The landscaping portion of the construction plans must include the significant tree retention plan per Condition D.1.k, otherwise land disturbing activity (grading) permits will be withheld until a significant tree retention plan is submitted and accepted.

Former Section 30.42B.135 Design criteria – drainage detention facilities.

The applicant proposes underground vaults for drainage detention. The design criteria in *former* SCC 30.42B.135 do not apply because this section only addressed the design of open ponds.

Former Section 30.42B.140 - Roads, access, circulation, pedestrian facilities and parking.

(1) The PRD has been designed to provide adequate road access, connection, and circulation to minimize traffic congestion, provide connection to adjoining neighborhoods, ensure adequate utility services, and provide emergency vehicle access.

(2) The configuration and design of the roads in this development are in accordance with Chapters 30.24, 30.53A, and 30.66B SCC. Five deviations from the Engineering and Design and Development Standards (EDDS) were requested, and three were granted.

(3) One private road is proposed to serve lots 98 to 112 and this road meets the objectives of this chapter.

(4) Does not apply.

(5) The county engineer has determined that the project provide adequate connection to county roads.

(6) PRDs must provide adequate and safe pedestrian access *both to and within* the development. Within the development, the sidewalks and trail system are both adequate and safe. However, offsite pedestrian connections on 60th Avenue West between the site and Picnic Point Elementary School are not adequate for pedestrian safety. Therefore using the authority to require offsite improvements granted to the Public Works director under *former* SCC 30.66B.430(3)(a) and (o), this report proposes conditions for offsite pedestrian improvements to ensure the safety of school children (see Condition G.2). What follows is a discussion of the detailed facts supporting the proposal to require offsite pedestrian improvements.

The Revised Code of Washington (RCW) requires safe walking conditions for schoolchildren. One of the factors counties must consider in approving subdivisions is whether “appropriate provisions are made for, but not limited to, the public health, safety, and general welfare for ... schools and school grounds ... including sidewalks and other planning features that assure safe walking conditions who only walk to and from school” (RCW 58.17.110).

Former SCC 30.42B.140(6) states that PRDs, such as Frognal Estates, “shall make appropriate provision for sidewalks and other planning features that assure safe walking conditions for students who walk to and from school”.⁸ In 2005, the Mukilteo School District stated that children living in Frognal Estates would walk to Picnic Point Elementary (middle- and high school students will be bused) (Exhibit H.3). Chapter 30.66B SCC allows the public work director to determine required improvements considering the extent of the development proposed (SCC 30.66B.430(3)(a)) and the need for safety improvements for schoolchildren (SCC 30.66B.430(3)(o)).

The school district request in 2005 (Exhibit H.3) requested improvements to assure safety of children walking from Frognal Estates to Picnic Point Elementary. Specifically, the school district requested that the developer of Frognal Estates install, “curb gutter and sidewalk along the off-site portion of 60th Ave W. on the east side extending south from the property approximately 1000 feet to connect with improvements at 140th St SW.” In a review completion letter to the applicant dated July 20, 2006, PDS carried the school district request forward (Exhibit K.7). This letter stated that:

“Adequate pedestrian facilities are required from the houses in the development to the bus stop and elementary school locations. A 7-foot paved shoulder shall be constructed along the east side of 60th Avenue West from the developments southern extent to 140th Street SW as a condition of this development.”

During ongoing review in 2015, county staff contacted the school district and requested updated comments (Exhibit K.8). This request noted that:

⁸ A contemporary comparable requirement is now in SCC 30.24.080.

While this requirement [the July 20, 2006, requirement in response to the September 23, 2005, request] appears simple enough, it would create problems with respect to the three portables along 60th Ave West because all three portables are closer to the right-of-way than would typically be allowed. To receive the reduced setback, all three portables have special conditions applied:

- Portable #1 (permitted circa 1987) included a condition that the “structure be relocated at such time as additional right-of-way is dedicated”;
- Portable #2 (permitted 1992) stipulates that the “Property owner [Mukilteo SD] assumes responsibility that requires setbacks and special site characteristics shall conform to approved site plan conditions”;
- Portable #3 (permitted in 2010) was required to build a landscaped berm matching the existing conditions of Portable #2 to the south. [See Figure 17, page 45]

A 7-foot paved shoulder would require removing part of the berm and landscaping along all three portables. The buildings would then no longer match the approved site conditions. It would potentially be the School District’s responsibility to relocate the portables if a 7-foot paved shoulder were required of the development to comply with the 2005 request.

Figure 16, below, illustrates the location of the portables at Picnic Point Elementary along the frontage of 60th Avenue West. Figure 17, page 45, shows the berm.



Figure 16 – Picnic Point Elementary (2010 Portable Circled)

Mukilteo School District responded with an updated request for pedestrian improvements (Exhibit H.7). This request regarding the safety of schoolchildren said:

With several years passing since the district submitted comments regarding this project, I [Cindy Steigerwald, Director of Transportation and Safety] would like to update comments. The district requests curbs gutters and sidewalks from 136th St SW to the rear entrance of Picnic Pointe Elementary on 60th Pl. W.

With increased traffic, we would also like traffic calming devices installed on 60th Pl. W from 136th St SW to 140th St.

The public works director determined that adequate pedestrian facilities are required from the houses in the development to the elementary school location. Onsite, this means that a public easement is required for the walkway system that will serve the public road within the proposed development. Further, the following offsite improvements are proportionate to the extent of the proposed development and necessary for the safety of schoolchildren (see Figure 18 – Location of Recommended Off-Site Improvements on page 45).

1. Full urban improvements shall be constructed offsite on the west side of 60th Avenue West between 136th Pl SW and the subject parcel's proposed improvements, a distance of approximately 100 feet (see Figure 18, page 45). (The Mukilteo School District did not specifically request this, but it was determined necessary by public works to complete the sidewalk network on the west side of 60th Avenue West, thereby providing a safe walking route for children on that side of the road.)
2. The developer shall construct a 7-foot paved walkway along the east side of 60th Avenue West from the developments southern extent to the rear entrance of Picnic Point Elementary, a distance of approximately 333 feet. See Condition G.2 and Figure 18, page 45). (The determination is that the request for full curb, gutter, and sidewalk offsite is unnecessary.)
3. The existing offsite student crossing on 60th Ave West at approximately 13900 (Figure 17 next page) shall be improved with a raised crossing, electronic signs and paint to the satisfaction of the DPW Traffic Operations. (The determination is that this is the only location from 136th to 140th Streets SW where traffic-calming devices are necessary and proportionate to the development).



Figure 17 – Street View of Portables, Crossing, and Berm (Google Maps)



Figure 18 – Location of Recommended Off-Site Improvements

(7) The PRD has been designed to provide parking as required by Chapter 30.26 SCC. Table 30.26.030(1) states that two spaces per single family dwelling unit are required. Two spaces per unit (located in each home's garage) are proposed. Guest parking is required at 0.5 space per dwelling unit, per SCC 30.42B.140(2). Guest parking is available in the driveways in front of each home (each driveway will accommodate 2 cars).

(8) The applicant has proposed alternate design elements to and justifications from the EDDS. The project record includes five requests to deviate from EDDS on four topics. Three deviations were approved and two, which were variations on the same topic, were both denied. These requests were:

- **Exhibit G.1:** EDDS Deviation Request, Section 5-11(D)(11), Stormwater Treatment Location, dated 8/3/05, received August 4, 2005
- **Exhibit G.2:** EDDS Deviation Request, Section 3-050, Road Standard, dated 8/3/05, received , August 4, 2005
- **Exhibit G.3:** *DENIED* EDDS Deviation Request, Section 3-08B, Stopping Sight Distance on 60th Ave W, dated 5/25/06
- **Exhibit G.4:** EDDS Deviation Request, Section 3-07A, Maximum Grades on 60th Ave W, received 5/26/06.
- **Exhibit G.7:** *DENIED* EDDS Deviation Request, Section 3-08B, Intersection Sight Distance, received 12/26/06

(9) and (10) do not apply.

Former Section 30.42B.145 - Design criteria – Bulk Regulations.

The proposed PRD site plan (Exhibit B.1, sheets P1-P3) generally complies with the bulk requirements in SCC 30.42B.145, but conditions to ensure full compatibility will be necessary.

(1) Lot area and lot width: There is no minimum lot area or lot width specified for PRD lots (Table 30.42B.145(1)).

(2) Building Setbacks : The typical lot layouts and building dimensions proposed (Exhibit B.1 Sheet P9) meet the setback requirements in SCC 30.42B.145. However, “typical lot layouts” in this context refers only to the standard rectangular lots. The PRD site plan also includes many irregular shaped lots (Exhibit B.1, sheets P1-P3). Not all buildings as proposed on the irregular lots would meet the setbacks in 30.42B.145. Figure 19, next page, illustrates this issue.

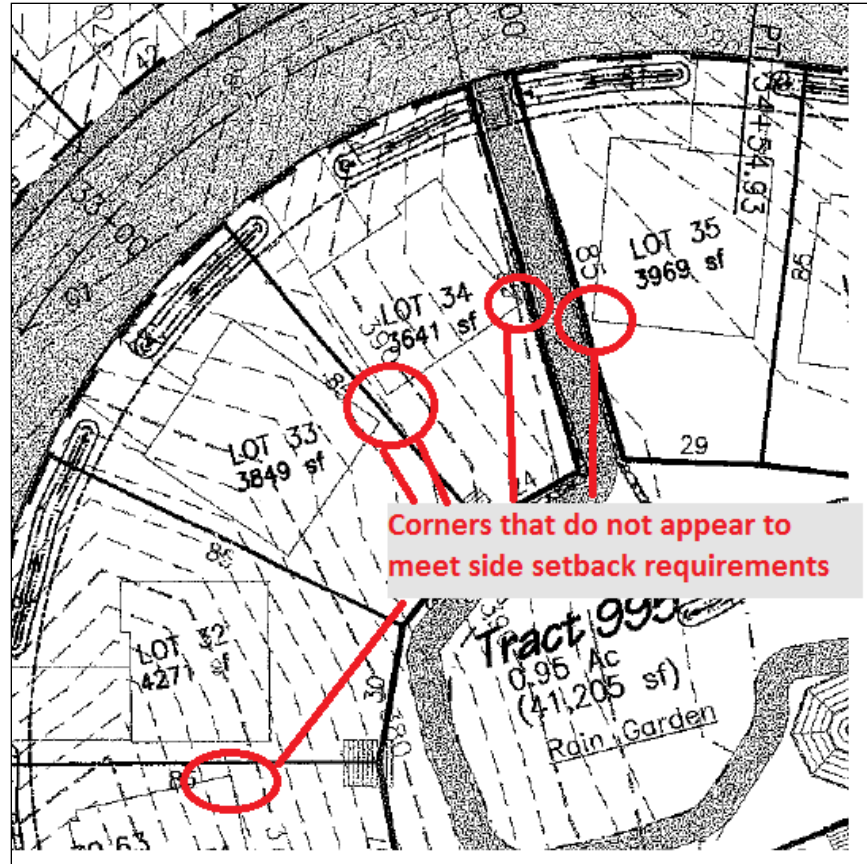


Figure 19 – Example of side setback issue from Exhibit B.1, Sheet P2

Sheet P9 (Exhibit 1) includes a note that reads, “It is the responsibility of the contractor and construction manager to ensure that all conflicts between plan sets are identified and resolved prior to commencement of construction activities.” There is nothing wrong with this language as it stands; however, given driveway length requirements, the proposed lot dimensions, and the proposed dimensions of the basic models of houses, it will not be possible to identify and correct for all of the setback issues in the field. Modified typical houses and new (smaller/narrower) models of houses will be necessary to meet all of the building setback requirements. Condition B.5 at the end of this report addresses the issue.

Former Section 30.42B.200 - Approval of PRD official site plan - Decision criteria.

PDS recommends approval of the PRD official site plan, subject to preconditions provided at the end of this report. The applicant has provided all of the minimum submittal requirements and the project can comply with the requirements of Chapter 30.42B SCC once revisions are made to comply with the proposed conditions.

Former Section 30.42B.210 – Official site plan – Effect and recording procedure.

(1) As noted in the recommended conditions at the end of this report, the PRD Site Plan received by PDS (Exhibit B.1, Sheets P1-9), as amended to comply with the preconditions and conditions recommended for the project, shall constitute the PRD Official Site Plan.

(2) Does not apply.

(3) As noted in the review of landscaping review above (*former* Chapter 30.25 SCC and *former* SCC 30.42B.130), the landscaping plan does not meet the requirements in effect for this project. Submittal and approval of a new landscaping plan is a recommended precondition for approval. See Precondition C.

(4) Does not apply until after preliminary plat approval.

(5) Open space areas are shown in separate tracts as required; however, several tracts need to be revised to show landslide hazard areas and undisturbed erosion hazard areas as critical areas rather than as open space. See review of *former* SCC 30.62.210 SCC and Precondition B.2.

(6) Recommended conditions are included at the end of this report related to establishment of a Homeowners Association (Condition G.5) and submittal of CCRs (Condition G.6).

Section 30.42B.250 – Maintenance of Site Improvements

Recommended conditions are included at the end of this report related to establishment of a Homeowners Association (Condition G.5) and submittal of CCRs (Condition G.6). The CCRs must also require on-going maintenance of commonly owned tracts and restrict the use of the tracts to that specified in the approved PRD.

Fire Code (Chapter 30.53A SCC)

Access: The Fire Marshal's Office has determined that the fire apparatus access shown on the proposed plat and site development plan meets the applicable requirements of SCC 30.53A and recommends approval of the land use application subject to recommend conditions that are included at the end of this report. Snohomish County sent notice of the project to Snohomish County Fire District #1 (see Exhibits F.5, F.9, F.10) and no response was received (a response was not necessary).

Separation: There must be a minimum 10-foot building separation between the dwelling units. In addition to appearing in the fire code, this requirement is effectively redundant to the side setback provisions requiring 5-foot setbacks on either side of a property line (since all buildings will be new and there will be two side-yards of at least five feet between each building). However, the PRD Official Site Plan discussed above for the requirements of *former* SCC 30.42B.145 shows the proposed houses on several of the lots not meeting the five-foot side setbacks and therefore not meeting the fire code. A recommended condition at the end of this report is to revise the PRD Official Site Plan to meet the setback requirements. If the revisions meet this requirement, the project will also meet the 10-foot building separation requirement in fire code. See Condition B.5.

Later review: Fire hydrant locations will be determined at the construction plan review for the project. The applicant must also provide details and location of the “no parking fire lane” signage or pavement striping at that time (see Condition G.13). PDS inspection staff will require installation of fire hydrants prior to the start of combustible construction. Hydrants must be operational and new buildings must have proper addresses displayed as required by code. See Conditions F.5 and H.1.

State Environmental Policy Act (SEPA) (Chapter 30.61 SCC)

Upon reviewing the proposal and SEPA checklist that accompanied the application (Exhibit E.1), PDS determined that the grading proposal had the potential to cause significant adverse environmental impacts. On April 27, 2007, PDS issued a DS for the proposal (Exhibit E.2). PDS determined that a limited scope Environmental Impact Statement (EIS) would be required to address the Earth element of the environment, specifically to analyze the potential impacts of moving large amounts of earth (cuts and fills) on a site with steep slopes. Following receipt of comments during the EIS scoping period, Snohomish County PDS expanded the scope of the EIS to include the water element; specifically, to require a downstream analysis of the potential effects of Frognal Estates stormwater runoff on Picnic Point Creek, from the site to Puget Sound. The EIS is composed of two volumes: a Draft Environmental Impact Statement (DEIS) (Exhibit E-3) and a Final Environmental Impact Statement (FEIS) (Exhibit E-4). The DEIS was issued by PDS on July 23, 2014 and the FEIS was issued on September 13, 2015. A timely challenge of the adequacy of the FEIS was filed on October 2, 2015 (Exhibit E-5).

Critical Area Regulations (*Former* Chapter 30.62 SCC)

Both representatives of the applicant and County staff have investigated the presence or absence of critical areas on the Frognal Estates site. As defined by Snohomish County Code, there are no streams or wetlands on site, nor do any of the offsite wetland buffers affect the subject property (Exhibits C.17, C.19, K.12 and K.13). There are not any protected species requiring special protections (Exhibit K.13). There are, however, two types of critical areas onsite, both of which fall under the umbrella term: Geologic Hazards. Erosion Hazard Areas and Landslide Hazard Area each receive detailed discussion below.

See Appendix A: Codes in Effect at Project Submittal on August 4, 2005 for legislative history and Appendix F: *Former* Chapter 30.62 SCC Critical Areas Regulations for code language used for this review.

***Former* Section 30.62.010 Purpose and Applicability**

The requirements of *former* Chapter 30.62 SCC shall apply to Frognal Estates.

Former SCC 30.62.030 Relationship to Chapter 30.61 SCC (Environmental Review SEPA)

The critical area regulations in former Chapter 30.62 SCC constitute adequate mitigation of adverse impacts or significant adverse environmental impacts on critical areas for purposes of Chapter 30.61. In other words, the regulations in *former* Chapter 30.62 SCC are adequate to meet SEPA requirements.

Former SCC 30.62.040 Designation of critical areas

This section begins, “The county has designated critical areas by defining their characteristics. There are no maps designating critical areas, except as otherwise indicated in this chapter.” In general, most designation of critical areas happens through a process of site review. For Frognal Estates, the only mapped critical areas are Erosion Hazard Areas (see *former* SCC 30.62.200 Erosion Hazard Areas below). In this instance, most of the Frognal site is mapped as an erosion hazard area, which means that most undisturbed portions of the site will need to be designated as critical areas (see review of *former* SCC 30.62.200 Erosion hazard areas). The applicant is responsible for identifying all other critical areas on the permit application and verification of these is by Snohomish County. The applicant has identified landslide hazard areas on the site and wetland critical areas offsite. Snohomish County staff verified the landslide hazard areas onsite and the conclusion that the buffers for the offsite wetlands do not affect the Frognal Estates site. See additional discussion under *former* SCC 30.62.055 Additional Submittal Requirements and 30.62.210 Landslide Hazard Areas below.

Former SCC 30.62.055 Additional Submittal Requirements

Applicants must submit additional information when subject to this chapter. Most of the required additional information is included in the PRD Official Site Plan and Civil Plat Plan (Exhibit B.1). The missing part is the location and proposed buffers and setbacks of the landslide hazard areas as required by *former* SCC 30.62.055(1)(a)(vi). See additional discussion under *former* SCC 30.62.210 Landslide Hazard Areas below and Condition G.14 to address this.

Former SCC 30.62.060 Time Period for Review

The Frognal Estates application is extended during the SEPA review process pursuant to SCC 30.70.140(4).

Former SCC 30.62.070 Bond or Performance Security

This section gives the planning director authorization to require bonds or performance securities to assure satisfactory completion of work and the protection of critical areas. See Condition D.1.o.

Former SCC 30.62.075 Permanent Protection for Critical Areas and Buffers

(1) Previously approved site plans: The western portion of Frognal Estates is in Hillman's Plat where there are no previously approved site plans. The eastern portion (Lot 1 of Regatta Estates) is part of an approved site plan for Regatta Estates as a whole, but this did not include any specific delineation of critical areas on Lot 1. Therefore, there are no previously approved site plans with critical areas for the Regatta Estates site and 30.62.075(1) does not apply.

(2) NGPAs: Erosion hazard areas and landslide hazard areas on the site that are not disturbed by development activity shall be designated as Native Growth Protection Area.⁹ Exhibit B.1 proposes to leave portions of Tracts 996, 997, 998, and 999 undisturbed but does not show the undisturbed area a designated NGPA. Recommended Condition B.2 would require designation of the undisturbed areas as NGPA.

(3) to (8) Do not apply. (4) and (5) do not apply to the Frognal Estates proposal at all. (3), (6), (7), and (8), will apply to subsequent stages such as final plat approval and recording, but are not applicable to the current preliminary plat proposal.

Former SCC 30.62.100 Protection for fish and wildlife habitat conservation areas.

Streams, wetlands, and riparian habitat areas all receive protection under *former* SCC 30.62.100; however, as none of these features or their buffers appears on the Frognal Estates site, then these provisions do not apply. Habitat conservation areas also have protection, but these protections apply only to specific species listed as threatened or endangered. The provision for areas to conserve wildlife habitat do not apply because no there has been no identification of such species on the Frognal Estates site.

Former SCC 30.62.200 Erosion hazard areas

Former SCC 30.62.200 has three parts. The first addresses what is a landslide hazard area and identifies the Snohomish County Drainage Manual (Drainage Manual) [1992 version] as the minimum standard for mitigating development on erosion hazards. The second part allows the planning director to approve alternate mitigation measures subject to a geotechnical report. The third part says that undisturbed erosion hazard areas shall become NGPAs.

Part (1) reads:

⁹ *Former* SCC 30.62.075(2) makes specific reference to a non-existent code section SCC 30.62.210(3) which would appear to be a reference to landslide hazard areas. There was never a correction made for this error and *former* Chapter 30.62 SCC was eventually repealed entirely. For the purpose of reviewing Frognal Estates, Snohomish County is assuming that the reference to a non-existent code section was intended to apply to language similar to that found in *former* SCC 30.62.200(3) which is also referenced in *former* SCC 30.62.075(2). *Former* SCC 30.62.200(3) states that all "portions of erosion hazard areas on the site which are undisturbed by development activities shall be designated as native growth protection areas". Our assumption is that the intent was to have all landslide hazard areas undisturbed by development activities also designated as NGPAs.

(1) Development activity proposed in erosion hazard areas as defined in chapter 30.91 SCC shall be protected by use of best management practices found in the Snohomish County Drainage Manual adopted pursuant to chapter 30.63A SCC. (*former* SCC 30.62.200(1).)

The definition of erosion hazard area in place at the time was found in *former* SCC 30.91E.160 Erosion Hazard Areas. This section formerly defined erosion hazards as:

[Those] areas with naturally occurring slopes, containing soils which are at high risk from water erosion according to the mapped description units of the United States Department of Agriculture Soil Conservation Service Soil Classification System. (*former* SCC 30.91E.160.)

A map produced by the United States Department of Agriculture (USDA) defines what is, or is not, an erosion hazard area under the version of Snohomish County Code in effect when Frognal Estates became vested. This explicit reference to USDA mapping makes erosion hazard areas one of the few types of critical areas mapped in advance per *former* SCC 30.62.040. Erosion hazard areas are the only type of critical area mapped in advance that applies to the Frognal Estates proposal.

The USDA mapping of erosion hazard areas includes two attributes. First is soil classification. Second is estimated slope. For Alderwood Gravelly Sandy Loam, anything with greater than an estimated 15% slope is an erosion hazard area under the USDA mapping system. For the vesting of Frognal Estates, the relevant mapping by the USDA Soil Conservation Service Soil Classification System is the 1999 version of the USDA map. Snohomish County has the 1999 USDA Soil Conservation Service Soil Classification System data available in its Geographic Information System (GIS). Using this GIS information makes it possible to look the Frognal Estates site closely. It is important to note that data for the USDA mapping is at a general scale and is only approximate. Field inspection of soil types and slopes provide a more accurate real-world analysis of erosion hazards. The issue here, however, is to determine the extent of erosion hazard area under the version of Snohomish County Code in effect at project vesting. Figure 20, next page, uses GIS data to overlay the Frognal Estates site on the USDA landslide hazard information.

As shown on Figure 20, all of the Frognal Estates site is considered Alderwood Gravelly Sandy Loam by USDA and only three small parts of Frognal Estates have slopes less than 15% according to the Soil Conservation Service Soil Classification System (1999 version). These are easier to see in Figure 21, bottom, which is a simplified cartogram of the information in Figure 20. Most of the Frognal Estates site is an erosion hazard area under *former* SCC 30.62.200.

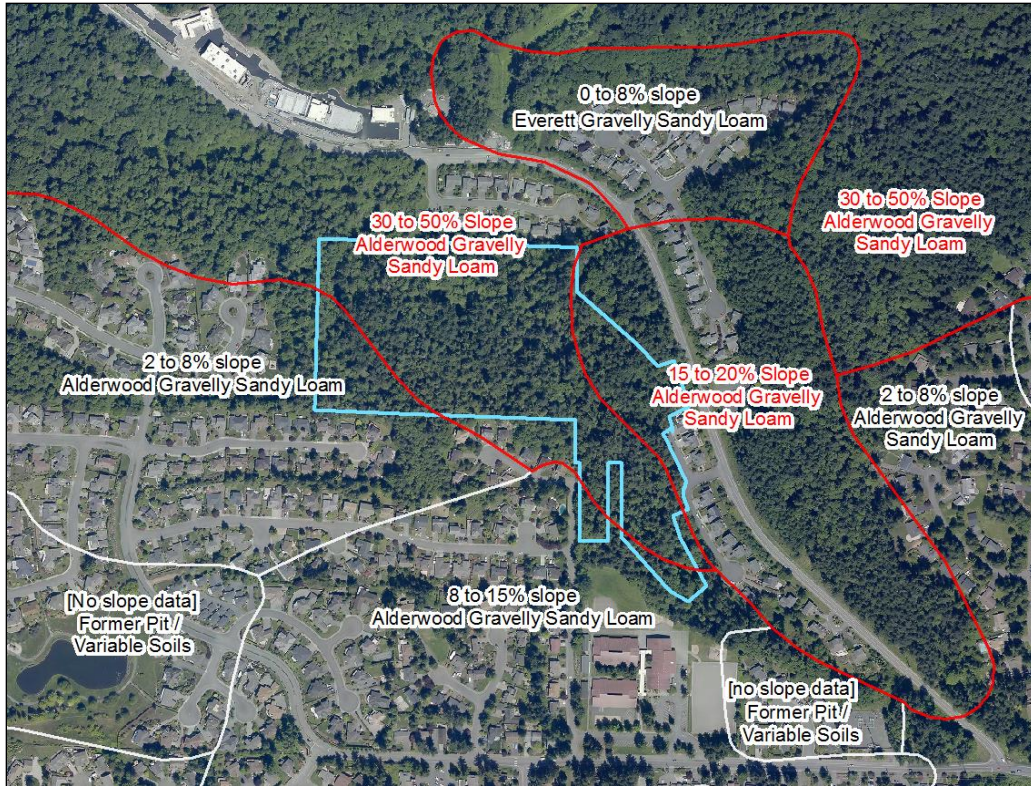


Figure 20 – GIS Rendering of USDA Mapping on Froggnal Site and Vicinity

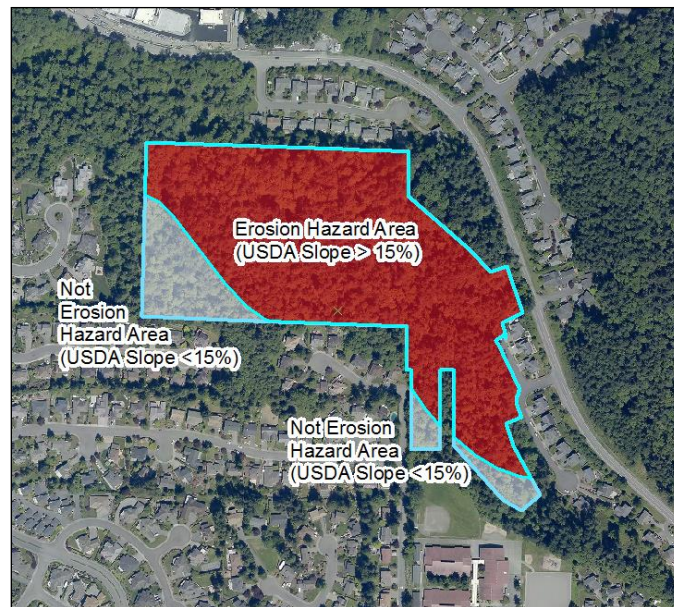


Figure 21 – Froggnal Estates Erosion Hazard Areas (Simplified Cartogram)

Former SCC 30.62.200(2) reads:

(2) The director may approve erosion control measures which differ from those required by SCC 30.62.200(1) if the applicant submits a geotechnical report which technically demonstrates and visually illustrates that the alternative

measures provide protection which is greater than or equal to that provided by the measures required in SCC 30.62.200(1).

The applicant has provided several geotechnical and stormwater drainage reports, including updated versions, which give detailed descriptions of the erosion hazards associated with the Frogna! Estates proposal (see Exhibits C.3 to C.6, C.8 to C.12, and C.14 to C.20). These reports technically demonstrate the proposed measures to protect against erosion hazards. Some of these measures are consistent with the 1992 Drainage Manual and other measures propose mitigation practices that have become standard after adoption of the 2010 Drainage Manual. PDS recommends approval of these measures subject to Conditions D.1, D.6, E.1 to E.20, and J.1.

(3) All portions of erosion hazard areas on the site which are undisturbed by development activities shall be designated as native growth protection areas in accordance with SCC 30.62.320. See Precondition B.2.

Former SCC 30.62.210 Landslide Hazard Areas

Review under *former* SCC 30.62.210 Landslide Hazard Areas must first establish what is or is not a landslide hazard area.

Landslide hazard areas at the Frogna! Estates site are determined by a combination of factors per the definition of landslide hazard area in *former* SCC 30.91L.040.¹⁰

Appendix K: Specific Code Sections Cited in Chapter 30.91 SCC Definitions includes the full text of *former* SCC 30.91L.040. Applying *former* SCC 30.91L.040 to the Frogna! Estates site, areas meeting all three of the following are landslide hazard areas:

1. There must be a vertical height of 10 feet or more;
2. Slopes must exceed 15%; and
3. Slopes must intersect geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock, and which contain springs or ground water seeps.

In addition to portions of the Frogna! Estates site that meet the three criteria above, areas with both more than 10 feet of vertical height and evidence of historic landslides would also be considered landslide hazard areas under *former* SCC 30.91L.040. Many of the public comments as well as the notice of appeal of the FEIS (Exhibit E.6) received on October 2, 2015 assert that portions of the site are landslide hazard areas because of signs of historic landslides.

If evidence of historic landslides does indeed exist, then these areas would be landslide hazard areas. However, none of the claims of evidence of historic landslides has accompanying specific information documenting the location and extent of said landslides.

¹⁰ The citation here for the definition of landslide hazard area is the preferred reference. In the Geotechnical Conditions Report (Exhibit C.18, page 8) there is a reference to “Snohomish County 30.62.015(16)” as the source of the landslide hazard definition. From October 1, 2007, to July 22, 2013, Snohomish County Code had identical language defining Landslide Hazard area in two places: *former* SCC 30.62.015(16) and *former* SCC 30.91L.040. Prior to October 1, 2007, the only definition was in Chapter 30.91L. The important thing is that the language quoted in Exhibit C.18 is correct in that it matches from *former* SCC 30.91L.040.

The geotechnical engineer for the EIS, Anthony Burgess, PhD, P.E., RPG, provided a site evaluation that identifies a limited area of the north slope above an offsite wetland that meets the criteria for definition of a “landslide hazard area” (Exhibit C.18). Based on this engineering work, only one landslide hazard are meeting the criteria in *former* SCC 30.91L.040 has been documented (see Figure 22, next page). Mr. Burgess and the peer review geologist for the EIS, Curtis Koger, L.G. L.E.G, LHg, as well as Snohomish County staff have made several field investigations looking for evidence of claimed historic landslides and have been unable to find any such evidence. Therefore, unless new and persuasive information is presented at the hearing for the preliminary plat, for purposes of reviewing the Frogna Estates proposal under applicable Snohomish County Codes, the only identified landslide hazard area is that which is shown in Figure 22, next page. This landslide hazard area is in the northwest portion of the site where steep slopes of permeable soils descend for approximately 80-90 feet and meet an impermeable layer soil that is roughly at the toe of the slope. At this point, groundwater that infiltrates through the permeable upper layer before reaching the impermeable lower later then seeps out of the ground and feeds an off-site wetland.

(1) Geotechnical engineering is required. The applicant has provided sufficient engineering has been provided for the preliminary plat (see Exhibits C.18, C.19 and C.20). Additional engineering will be required for construction plan approval. See Conditions D.1.c, .d, .e, .p, .q, .r, .s, and .t.

(2)(b) Setbacks on descending slopes. The homes proposed for lots 23 to 26 are at the top of descending slopes determined to be a landslide hazard area. The typical backyard building setback from the property line is five feet per SCC 30.23.032 Urban Residential Zone categories – Bulk Matrix; however, the presence of a landslide hazard area makes this setback greater. Per *former* (2)(b)(ii) the minimum setback from landslide hazard areas is 1/3 the height of the slope if the angle is between 33 and 100%. The angle of this the landslide hazard area slope on the Frogna Estates site is consistently close to 50% (72 feet of descent over 145 feet of run at lot 23 to 90 feet of descent over 210 feet at lot 26). Therefore, the setbacks under *former* SCC 30.62.210(2)(b)(ii) would be between 24 feet and 30 feet if not further amended by *former* SCC 30.62.210 (2)(c).

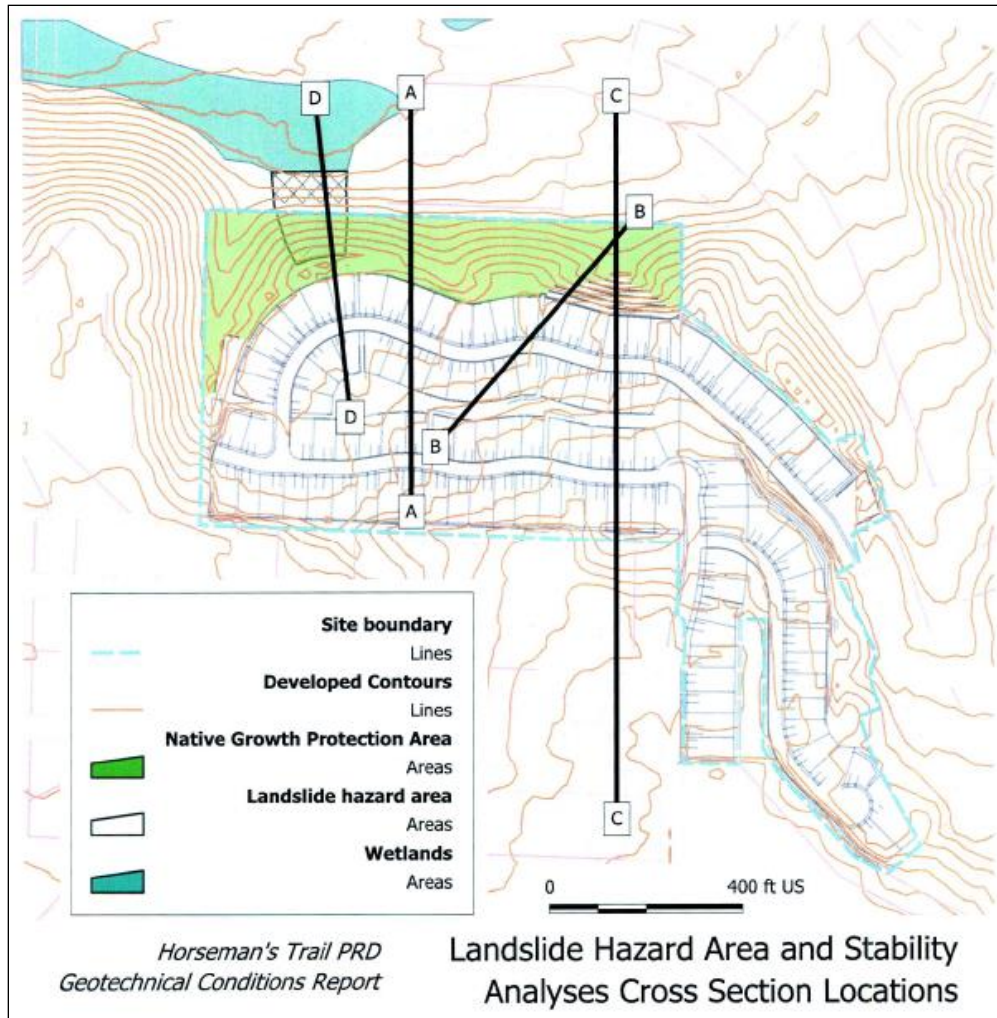


Figure 22 – Landslide Hazard Areas Identified (Modified from Figure 7-1 in Exhibit C.18)

(2)(c) Alternative setbacks. Former SCC 30.62.210(2)(c) states that the PDS director,

may approve setbacks which differ from those required by [former] SCC 30.62.210(2) if the applicant submits a geotechnical report which technically demonstrates and visually illustrates that the alternative setbacks provide protection which is greater than or equal to that provided by the setbacks required in [former] SCC 30.62.210(2).

In other words, the PDS director may recommend different setbacks if supported by a geotechnical report submitted by the applicant. The applicant has provided such a geotechnical report in the form of Exhibit C.18, titled *Horseman's Trail Geotechnical Conditions Report* by Anthony Burgess Consulting, dated September 2013.

Exhibit C.18 summarizes its discussion of slope stability above the landslide hazard area by saying on page 9 that:

Section 30.62B.340 (2) (b) of the Critical Area Regulations defines the setbacks from the top of slopes. The identified potential landslide hazard area has a height of 90 feet and a slope of about 50 percent. This requires a setback from the top of the slope of the height of the slope divided by 3, or 50 feet, whichever is greater.

Therefore, based on the site conditions, the applicant's geotechnical consultant is recommending use of a setback standard adopted in 2007 (Chapter 30.62B SCC) rather than the setback standard to which the project is vested (*former* Chapter 30.62 SCC).¹¹ The setback being recommended is greater than that required under *former* SCC 30.62.210(2)(b)(ii). PDS concurs with this recommendation, but is obligated to note several caveats.

1. The discussion of slope stability in Exhibit C.18 is based on critical areas regulations in effect when Exhibit C.18 was written in 2008, i.e., it refers to Snohomish County Code adopted in 2007 rather than the 2005 version of code to which Froggnal Estates is vested.
2. The regulations adopted in 2007 were more stringent regarding landslide hazard areas than those in effect in 2005.
3. At page 8 on Exhibit C.18, the reference to SCC 30.62B.340 as the definition for landslide hazard area should be a reference to *former* SCC 30.91L.040 (Chapter 30.62B SCC did not exist until 2007). However, the language quoted is correct.
4. The discussion of setbacks under SCC 30.62B.340(2)(b) (Exhibit C.18, pages 8-9), is based on the successor language to *former* SCC 30.62.210(2)(c), which would have been the appropriate code authority to cite. The greater of 1/3 the height of the slope or 50 feet as setback did not exist in the 2005 requirements. PDS concurs with the conclusion that 50 feet is the appropriate setback to use given the geologic context; PROVIDED, as stated by in Exhibit C.18 that additional stability analyses could show that building setbacks could be "outside the regulation-defined steep slope area," i.e. less than 50 feet, if:
 - All proposed retaining wall systems are properly designed and analyzed to confirm that adjacent slopes and off-site properties are not impacted by the proposed development.
 - All existing vegetation is retained within the buffer area.
 - All surface and roof water is properly tightlined to an approved discharge location at the base of the steep slope and is not allowed to flow over the slope face, near the slope crest, or within existing drainage ravines. (Exhibit C.18, page 9)

Summary and application of *Former* SCC 30.62.210. A landslide hazard area exists below lots 23 to 26. The geotechnical report (Exhibit C.18) recommends applying a 50-foot setback from the top of this hazard, unless appropriate construction techniques are proposed and evaluated for suitability. The 50-foot setback would be greater than typically be required under the version of code in effect at the time of project application, but PDS concurs with the recommendation. Several caveats have been noted regarding code citations in the geotechnical report. The PRD

¹¹ Ordinance 06-061, which became effective on October 1, 2007, repealed *former* Chapter 30.62 SCC and added Chapter 30.62B as a replacement. This replacement was not one-for-one; the version of SCC 30.62B.340(2)(b) adopted by Ordinance 06-061 kept the setback at 1/3 the height of the slope from *former* SCC 30.62.210(2)(c) but added the "or 50 feet, whichever is greater" language. SCC 30.62B.340 was subsequently amended in 2015.

site plan (Exhibit B-1) shows setbacks that do not meet the setback recommended by in Exhibit C.18 (see Figure 23, below), but it may be possible with additional analyses at the building permit stage for houses to be located as shown. This staff recommendation notes that the FEIS only identified Lots 24 and 25 as being subject to landslide hazards (Exhibit E.5, page 1-21), but the setback and additional geotechnical work requirements would actually apply to Lots 23-26. Conditions G.14 and H.2, both address setbacks for lots above the landslide hazard area.

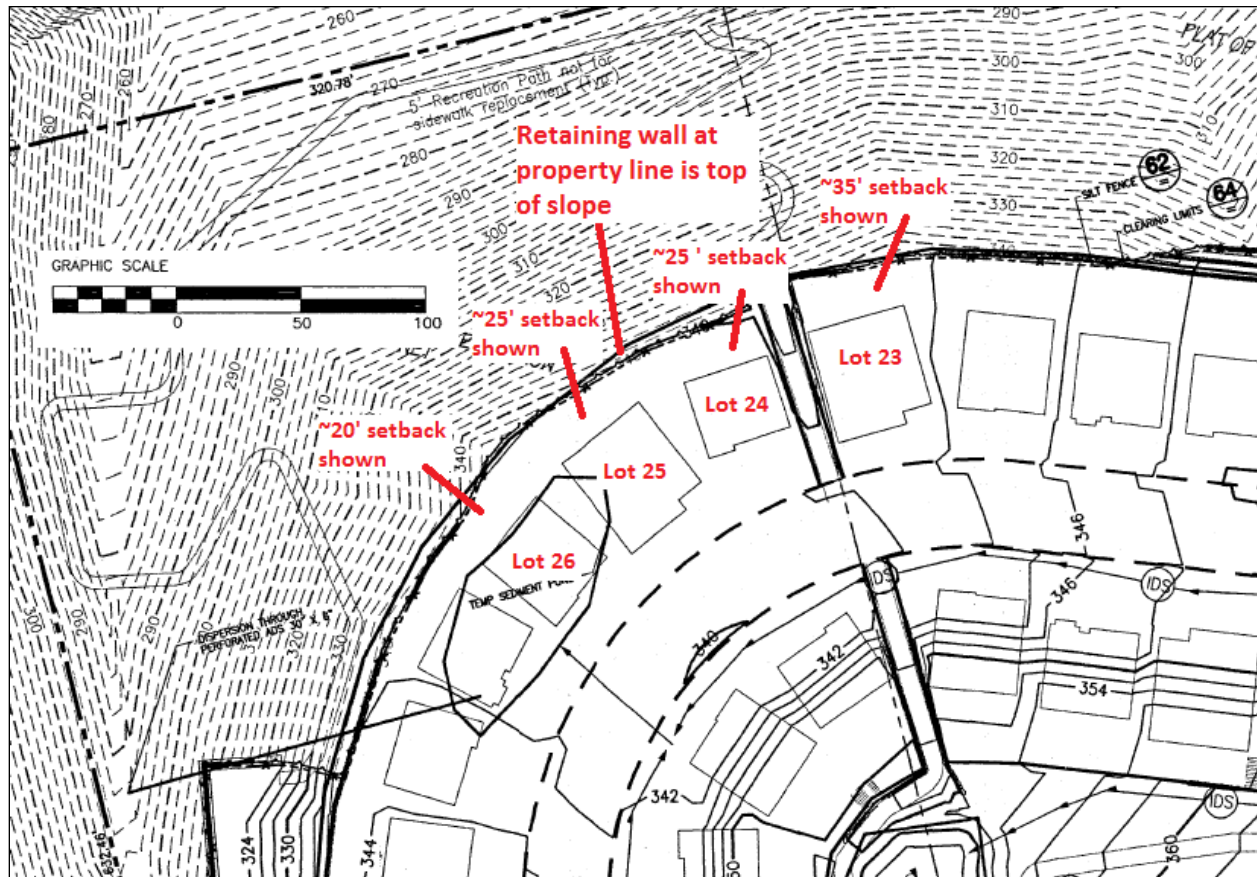


Figure 23 – Setbacks Shown for Lots 23 to 26, Adapted from Exhibit B.1, Sheet C-2

Drainage and Grading (Chapters 30.63A and 30.63B SCC)

Reality intertwines drainage and grading issues, yet Snohomish County Code puts them in different chapters. This section includes a general overview of the review process, the existing drainage conditions on the site, and the proposed conditions after grading is complete. It then reviews the specific code sections in each chapter.

Review Process

The county drainage code, Chapter 30.63A SCC, and other applicable regulations address drainage impacts. Those requirements ensure that the proposed drainage system conforms to county, state and federal requirements. Chapter 30.63A SCC requires submittal and implementation of a drainage plan for the proposal. PDS has reviewed the targeted drainage plan (Exhibit C.20) articulating the drainage concept detailed below. From this plan, Snohomish County concludes that the Frognal Estates proposal can conform to the drainage code requirements.

The project applicant will need to submit construction plans with specifics on the final drainage system. Construction design matters are under the administrative authority of PDS. Conformity with Chapter 30.63A SCC which adopts or references the applicable drainage manual and the engineering design and development standards (EDDS) are the standards to which construction plans shall be designed to. The appropriate level of review at the preliminary plat stage is whether the conceptual drainage approach, i.e. the targeted drainage plan (Exhibit C.20), shows that the development can feasibly conform to the requirements of Chapter SCC 30.63A and the Drainage Manual.

It is important to note that the review of Frognal Estates is using the current Snohomish County Drainage Manual (September 2010) rather than an earlier manual adopted in 1992 (and to which the applicant could have argued that the project was vested to). The 2010 Drainage Manual used the Stormwater Management Manual for Western Washington (SMMWW) published by the Department of Ecology in 2005 as its basis. Understanding that the Frognal Estates site has challenging drainage conditions and that Snohomish County was in the process of updating its own Drainage Manual to be consistent with the SMMWW, the applicant made an offer to use the SMMWW as a guide for the preparation of the targeted drainage plan. Given the updated science behind the newer manual and the complex issues on the proposed development site, Snohomish County finds the offer to use the SMMWW and the current Drainage Manual appropriate.

PDS has concluded that the conceptual drainage plan can feasibly conform to the requirements of SCC 30.63A, subject to the use of the 2010 Drainage Manual, minimum requirements 1 through 9 contained within the Drainage Manual shall be required as part any submittal of construction plans for the subject development activity and other conditions dictated by other County codes.

Existing Conditions

Mature second growth forest covers the Frogmal Estates site. There are no buildings or significant manmade structures present. A forest practice permit will be required as part of the project development. The applicant provided a preliminary estimate of the amount of timber on site of approximately 468,000 board feet.

The west half of the site slopes generally down toward the north with ravines at either end and 10% slopes for several hundred feet before slope averaging 45% to 60% extend to the bottom of the hill. The east half of the site generally slopes down toward the east with 30% to 45% slopes. Site topography ranges from a low elevation of approximately 260 feet above mean sea level (MSL) to a high of approximately 460 feet above MSL. The low-end entry at 58th Place W (370 feet above MSL), to the exit at 60th Avenue W (460 feet above MSL), spans a 90-foot change in elevation.

According to the USDA, the soil classification for the site is Alderwood Gravelly Sandy Loam, see Figure 20, page 53, and the EIS geo-technical engineer has confirmed the soil the presence of Alderwood typing and noted the additional presence of Everett-type soils, see Figure 24, below.

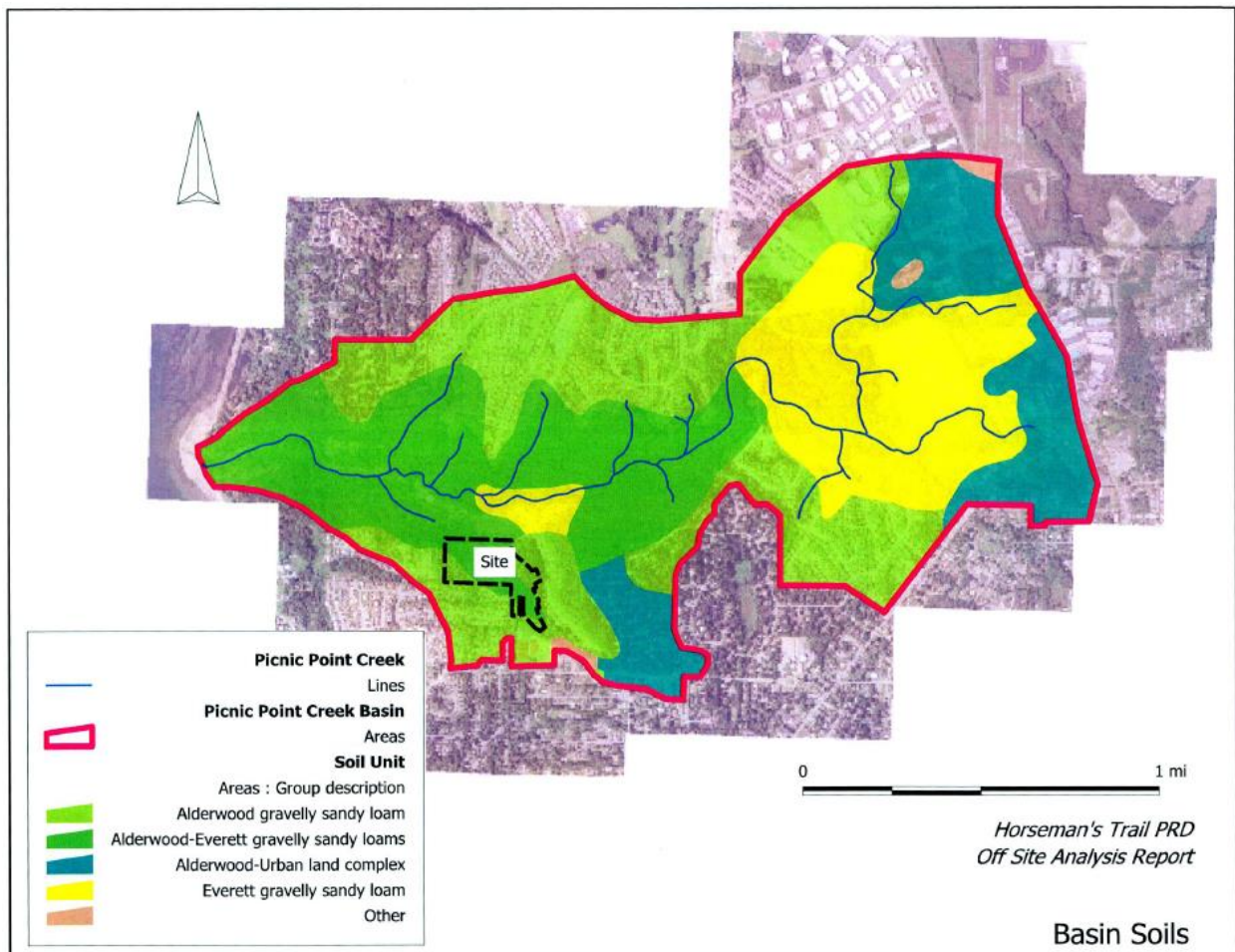


Figure 24 – Basic Soil Types as Adapted from Exhibit C.8 Figure 4-3

The extent of the up-stream storm water contributing area is from the Picnic Point Place and Forest landing subdivisions as well as Picnic Point Elementary to the south and southwest of the project site. Flows from these areas will be received and conveyed through the development if the flows do not infiltrate into native soils along the southwest perimeter of the site. The surface water runoff from the project site discharges northward to Picnic Point Creek.

Proposed Conditions

The proposed development will construct single-family residences and associated infrastructure on the site. To meet GMA density goals for the Planned Residential Development on this site with significant topographical variation, the development proposes to include terraces. Proposed terracing will require retaining walls with varying structural criteria (described in Exhibit E.3, Draft EIS Chapter 2, Section 2.5.2). The drainage system will collect and convey storm drainage to three underground detention vaults located in the west, east and south portions of the site. Two of these facilities are proposed as a combination of covered detention vaults with a series of bio-retention cells located downstream of the vaults. From the proposed discharge points, the stormwater flows will continue to flow toward Picnic Point Creek.

Engineering and grading plans estimate that earthwork (cuts and fills) will be in approximate balance on the site. The plans call for redistribution of approximately 285,000 cubic yards of material on the property to achieve design grades, accomplished by cutting some portions of the site and filling others. The material to be graded is comprised of organic surface soils, a weathered subsurface layer, lodgment till, and outwash sands.

Approximately 39,000 net cubic yards of fill would occur on site. It would be necessary to haul approximately 36,000 cubic yards (2,160 truck and trailer loads) of excavated material off-site for disposal or reuse elsewhere (FEIS (Exhibit E.5) potential impact, page 1-19).

The proposal would add a total of approximately 3.44 acres of new impervious surfaces in the form of roads, parking areas, and rooftops.

Flow control for the project would be in three detention vaults located in Tracts 999, 998 and 994.

The proposal includes numerous bio-retention cells to provide water quality treatment.

Drainage Review (Chapter 30.63A SCC)

Review of Frogmal Estates is to the drainage requirements of *Former* Chapter 30.63A.SCC, which were in effect at project submittal on August 4, 2005. See Appendix A for legislative history and Appendices G and H for code language used for this review.

***Former* SCC 30.63A.010 Purpose and Applicability**

The requirements of *former* Chapter 30.63A SCC shall apply to Frogmal Estates.

***Former* SCC 30.63A.020 Exemptions**

None of the possible exemptions apply to Frogmal Estates.

***Former* SCC 30.63A.060 Relationship to Chapter 30.61 SCC**

Chapter 30.61 SCC relates to Snohomish County's implementation of the State Environmental Policy Act (SEPA). *Former* SCC 30.63A.060 allows the director of Planning and Development Services (PDS) to determine that the requirements of the drainage code adequately address the probable adverse environmental impacts of a development. However, when reviewing the proposal for Frogmal Estates, the director determined that the drainage code was not adequate in this instance. This is one of the reasons for PDS to issue a Determination of Significance & Request for Comments of Scope of EIS on May 10, 2007 (Exhibit E.2). This determination led to a limited scope environmental review under SEPA, including an EIS. The EIS is made of two volumes, a Draft Environmental Impact Statement (Exhibit E.3) and a Final Environmental Impact Statement (Exhibit E.5).

***Present-day* SCC 30.63A.110 Snohomish County Drainage Manual**

When projects are required to comply with the Snohomish County Drainage Manual, Best Management Practices (BMPs) are required, consistent with the Drainage Manual. Frogmal Estates is required to comply with the Drainage Manual and, by extension, with the BMPs in the manual. See discussion under *former* SCC 30.63A.250.

***Former* SCC 30.63A.120 Drainage Review for Major Development Activities**

Frogmal Estates would constitute a major development activity under *former* SCC 30.63A.120(2). A targeted drainage plan was submitted (Exhibit C.4) and then revised with a resubmittal of the project (Exhibit C.3) per the requirements of *former* SCC 30.63A.120(1) SCC. However, PDS has not approved the targeted drainage plan. One recommended condition for project approval is for the applicant to revise and receive approval of the targeted drainage plan to meet with the requirements of *former* Chapter 30.63A SCC. See Condition D.1.

***Former* SCC 30.63A.140 Drainage Review Process**

A full drainage plan shall be required with submittal of construction plans. See Condition D.1.

Former SCC 30.63A.170 Drainage Inspection Process

Planning and Development Services has determined that special inspections will be required for water quality monitoring during the construction of Froggnal Estates. PDS will require a performance security to guarantee the completion of the required drainage facilities. See Condition D.1.o.

Former SCC 30.63A.200 Drainage System Requirements for all Development Activities with Drainage Plans

The targeted drainage plan must be revised to fully comply with *former* SCC 30.63A.200. See Condition D.1.

Former SCC 30.63A.210 Drainage System Requirements for Major Development Activities

These requirements shall apply to the full drainage plan required to accompany construction plans by Condition D.1.

Former SCC 30.63A.220 Erosion and Sediment Control Requirements

This code section describes both the minimum requirements to control erosion and sediment as well optional additional requirements that the planning director may require. Based on the site conditions and migration measures identified during environmental review (Exhibits E.3 and E.5), several conditions are recommended to control erosion and sediment. See Conditions D.1.a to D.1.h, D.1.j and E.2 to E.19.

Former SCC 30.63A.250 Modifications or Waivers of Requirements

This code section allows the planning director to require more stringent standards and requirements than specified in *former* Chapter 30.63A SCC. It also allows the applicant to request modifications to *former* Chapter 30.63A SCC. The director has determined that the requirements of *former* Chapter 30.63A SCC will not fully address the mitigation of drainage impacts or fully protect the health, safety and welfare because of unusual topography and soil conditions. The applicant has responded by proposing several best management practices (BMPs) that are consistent with contemporary Snohomish County requirements, adopted into the Snohomish County Drainage Manual (September 2010) but which were not in effect at the time of project submittal. Examples of BMPs that Froggnal Estates will need to adhere to include:

- BMP C101: Preserving Natural Vegetation
- BMP C121: Mulching
- BMP C122: Nets and Blankets
- BMP C124: Topsoiling
- BMP C240: Sediment Trap

Snohomish County recommends that use of BMPs, as offered by the applicant, become a condition for approval of the preliminary plat (see Condition D.1). As a precondition to this, PDS recommends submittal of a revised targeted drainage plan for review and approval (part of Precondition B). The revised targeted drainage plan will later be the basis for submitting a full drainage plan accompanying construction plans for review and approval.

Former SCC 30.63A.300 Maintenance Responsibility for Drainage Facilities

The owner shall be responsible for maintenance and operation of on-site drainage facilities. See Conditions D.1.o and G.6.e.

Former SCC 30.63A.330 Easements Granted to the County

Former SCC 30.63A.330 authorizes Snohomish County to require access easements to drainage facilities. Snohomish County requires such access easements and recommends Condition F.1.b as part of the approval of preliminary plat in order to ensure that such access easements are recorded with the final plat.

Former SCC 30.63A.350 Maintenance Covenant

The covenants for Frogmal Estates must include maintenance of drainage facilities. See Condition G.6.e.

Former SCC 30.63A.360 Separate Tracts for Detention Facilities

This section requires that drainage facilities be in separate tracts or under roadways (if approved). The Frogmal Estates proposal shows detention facilities in Tracts 998 and 999.

Former SCC 30.63A.400 Security and Insurance and Former SCC 30.63A.410 Performance Security Requirements

These sections authorize the requirement of performance securities to insure work required by *former* Chapter 30.63A. The applicant shall provide such a performance security. See Condition D.1.o.

Present-day 30.63A.450 Minimum Requirement 2: SWPPP – General Requirements

For drainage, the applicant has agreed to meet the minimum requirements spelled out in present-day Chapter 30.63A and mitigation measures identified in the FEIS when finalizing construction plans. Snohomish County agrees that use of the new requirements and mitigation measures is appropriate. Snohomish County notes that one of the mitigation measures in the FEIS refers to “seal-rolling” (Exhibit E.5 mitigation measure, page 1-23), but Snohomish County prefers the method known as “proof rolling” (Exhibit K.20). Recommended Condition E.13, therefore, uses the term proof rolling.

Grading Code Review (*Former* Chapter 30.63B SCC)

Review of Frogmal Estates is to the grading requirements of *Former* Chapter 30.63B.SCC, which were in effect at project submittal on August 4, 2005. See Appendix A: Codes in Effect at Project Submittal on August 4, 2005 for legislative history and Appendix H: *Former* Chapter 30.63B Grading Code for code language used for this review.

***Former* SCC 30.63B.010 Purpose and Applicability**

The requirements of *former* Chapter 30.63A.SCC shall apply to Frogmal Estates.

***Former* SCC 30.63B.020 Exemptions**

None of the possible exemptions apply to Frogmal Estates.

***Former* SCC 30.63B.100 Engineered Grading**

A civil engineer has signed and stamped the grading plans as required (Exhibit B.1, Sheets C2 and C3).

***Former* SCC 30.63B.110 Reports on geotechnical engineering, soils engineering, engineering geology, and liquefaction.**

When issuing a Determination of Significance for Frogmal Estates (see Exhibit E.2) the building official conclude that the proposed project posed a substantial threat to public health, safety, and welfare due to the large amounts of proposed grading and the conditions of the site. This conclusion meant that soils engineering and engineering geology (geotechnical) reports could be required for the project. The applicant anticipated the need for such reports and submitted several reports before the Determination of Significance occurred (see Exhibits C-6, C-10, C-12, C-14, and C-15). Additional geotechnical/soils engineering reports/updated reports were submitted after the Determination of Significance (see Exhibits C-8, C-9 and C-11). Snohomish County considers these reports adequate.

***Former* SCC 30.63B.200 Issuance of Grading Permits**

Issuance of grading permits takes place only after the applicant obtains all other necessary permits and plan approvals. However, this staff recommendation includes a condition per *former* SCC 30.63B.200(3) restricting the months where grading may occur. See Condition D.1.a.

***Former* SCC 30.63B.220 Grading Inspections**

This section describes the types of inspections required during grading. Frogmal Estates is vested to *former* SCC 30.63B.220 and these inspections shall be required. See Conditions E.2, E.3, E.6, E.8, E.10, and E.17.

***Former* SCC 30.63B.230 Completion of Work**

This section describes the reports and as-built drawings required after completion of grading. Frogmal Estates is vested to *former* SCC 30.63B.230 and these requirements shall apply.

Former SCC 30.63B.240 Bonds or Performance Security

This code section authorizes the planning director to require bonds or performance securities relating to grading work and associated drainage facilities. The recommendation is that such bond and securities are necessary for Froggnal Estates. See Condition D.1.o.

Former SCC 30.63B.250 Modification of Permit Conditions

In order to protect public health, safety, and welfare, this code section authorizes the planning director to require modifications to grading plans and requirements. Based on the combination of an unusually large amount of grading, steeper topography than is typical for areas where the grading code is applied, soil and weather conditions, this staff recommendation proposes several conditions that are more stringent requirements than would typically be required under *former* Chapter 30.63B. In general, these are encapsulated by requirement in Condition D.1 to comply with present day Chapters 30.63A (Drainage) and 30.63B (Land Disturbing Activity) when preparing the Stormwater Pollution Prevention Plan, full drainage and grading plans.

Former SCC 30.63B.310 Cuts or excavations and former SCC 30.63B.320 Fills or Embankments

The proposed grading meets the requirements for cuts, excavations, fills, and embankments.

Former SCC 30.63B.330 Setbacks for cuts or fills

This section will be addressed on construction plans first and later during inspection as construction proceeds.

Former SCC 30.63B.340 Drainage and terracing

The proposed drainage and terracing meets the requirements of this section.

Former SCC 30.63B.350 Erosion Control

The majority of the site is an erosion hazard area (see review of *Former* SCC 30.62.200 Erosion hazard areas). Consistent with the erosion hazards and *Former* SCC 30.63A.220 Erosion and Sediment Control Requirements, special conditions will be required during construction. See Conditions E.1 to E.19.

Summary of Drainage and Grading Review

PDS staff, having reviewed the application documents submitted and EIS and concludes that the Froggnal Estates proposal can meet the requirements of drainage and grading codes, as conditioned. PDS will conduct additional review of specific engineering design for construction plans prior to the initiation of site development activities.

Park and Recreation Impact Mitigation (Chapter 30.66A SCC)

The proposal is in the Nakeeta Beach Park Service Area (307) and is subject to Chapter 30.66A SCC. The applicable park impact fee is currently \$1,244.49 for each new dwelling unit per SCC 30.66A.040. Payment of park impact fees is required prior to building permit issuance (SCC 30.66A.020(3)). The fee may change by the time of building permit issuance. The applicable fee assessed at permit issuance “shall be based upon the rate in effect at the time of building permit issuance”, because the application for Froggnal Estates was deemed complete more than five years ago (SCC 30.66A.020(2)). Payment of appropriate fees is acceptable mitigation for parks and recreation impacts in accordance with county codes and policies. Condition G.1 at the end of this report to assures compliance with the requirements of Chapter SCC 30.66A SCC.

Traffic Mitigation (Chapter 30.66B SCC)

The Transportation Engineering Section of PDS has reviewed the subject development proposal for compliance with Chapter 30.66B SCC (Snohomish County’s Traffic Mitigation and Concurrency Ordinances), Title 13 SCC, Snohomish County Engineering Design and Development Standards (EDDS), and the appropriate County Rules and procedures and has summarized that review below. This development proposal is subject to the requirements of the version of Chapter 30.66B SCC that was in effect at the time of submittal of a complete application to the County, which in this case is August 4, 2005.

General Information

- The applicant proposes to develop 22.34 acres into a 112-lot subdivision. Duplexes are not proposed.
- The subject property is located on both sides of 60th Ave W, 200 feet north of 136th Place West, off Picnic Point Road, approximately ½ mile south of the city limits of Mukilteo in Transportation Service Area (TSA) “D”, inside the Urban Growth Area.
- Three EDDS deviation requests are approved for this proposed development.

Record of Development Obligations: *Former* SCC 30.66B.070

When a development creates impacts to the transportation system that obligations the applicant to perform mitigation, the steps for mitigation are outlined in SCC 30.66B.070. Conditions placed on the project, for example the requirement to pay impact fees, shall be consistent with this section.

Concurrency: *Former SCC 30.66B.120 Concurrency determination – required;*
SCC 30.66B.125 Concurrency determination – process;
SCC 30.63B.130 Concurrency determination – methodology;
Former SCC 30.66B.135 Development deemed concurrent;
SCC 30.66B.145 Concurrency determination – forecasting level-of-service
SCC 30.66B.155 Concurrency determination – expiration

Concurrency determination is an evaluation of whether a proposed development will impact a County arterial unit in arrears. In other words, will the development make a failing arterial worse. Based on the level-of service standards adopted in Chapter 30.66B, Frogmal Estates will not impact any arterial unit in arrears. It will not cause any arterial unit to fall in arrears and it does not impact any designated ultimate capacity arterial units. The Department of Public Works therefore deems it concurrent.

Frogmal Estates has had two concurrency determinations. The first concurrency determination dated January 12, 2007 (Exhibit K.11) was based on a traffic study (Exhibit C.1) submitted with the original application has expired. The applicant submitted an updated traffic study (Exhibit C.2). After reviewing this study, Snohomish County granted a new concurrency determination on concurrent on May 15, 2015 (Exhibit K.10). This concurrency determination expires after six years, i.e. on May 15, 2021. Prior to the expiration date of the development's concurrency certificate, the applicant shall obtain preliminary approval, or a new concurrency determination will be required.

In both traffic studies submitted by the applicant, the future level-of-service projects indicated that the arterial units in the area would operate at acceptable levels under the future conditions.

Inadequate Road Condition (IRC) (SCC 30.66B.210)

This section applies to developments that would add three or more PM peak hour trips to a location in the road system determined to have an existing inadequate road condition (IRC) at the time of imposition of mitigation requirements, or development whose traffic will cause an IRC at the time of full occupancy of the development, must eliminate the IRC.

The subject proposal will not impact any IRC locations identified at this time within TSA D with three or more of its p.m. peak hour trips, nor will it create any. Therefore, mitigation will not be required with respect to inadequate road conditions. No restrictions to building permit issuance or certificate of occupancy/final inspection will be imposed under this section of Chapter 30.66B.

Road System Impact Fee (SCC 30.66B.310)

All development must mitigate its impact on the Snohomish County road system by paying an impact fee to offset impacts to the road system. This fee relates to the impacts of the development on arterial roads located in the same transportation service area as the development. A development's road system impact fee is equal to the development's new average daily traffic (ADT) times the per trip amount for the specific Transportation Service Area (TSA) identified in *former* SCC 30.66B.330. Frogнал Estates is in TSA D. The rate refers to a former version of the fee schedule because fees for Frogнал Estates shall be those in effect at the time of project submittal (*former* SCC 30.66B.340(2)).

Based on the 7th Edition of the Trip Generation Report published by the Institute of Transportation Engineers, which was the latest edition of the report when the concurrency determination (Exhibit K.11) was made, the ADT per new single family residence (SFR) was 9.57 ADT/SFR. The fee rate for Frogнал Estates in *former* SCC 30.66B.330 is \$226 per new residential unit. This project will receive a 5 percent credit toward the traffic impact fee because the applicant has submitted an acceptable Transportation Demand Management (TDM) plan.

Road System Impact Fee Calculation	Amounts
1. ADT per lot	9.57
2. Number of lots	112
3. Total ADT resulting from the development	=1,071.84
4. Less TDM credit of 5% (Line 3 x 0.95)	=1,018.248
5. TSA D amount per ADT for residential developments inside the UGA	\$226.00
6. Road system impact fee for this development (Line 4 x Line 5)	\$230,124.05
7. Amount to be paid per unit (Line 6 / Line 2)	\$2,054.68

Table 3 – Road System Impact Fee Calculation

Payment of this road system impact fee is due prior to building permit issuance (*former* SCC 30.66B.340), see Condition F.3.

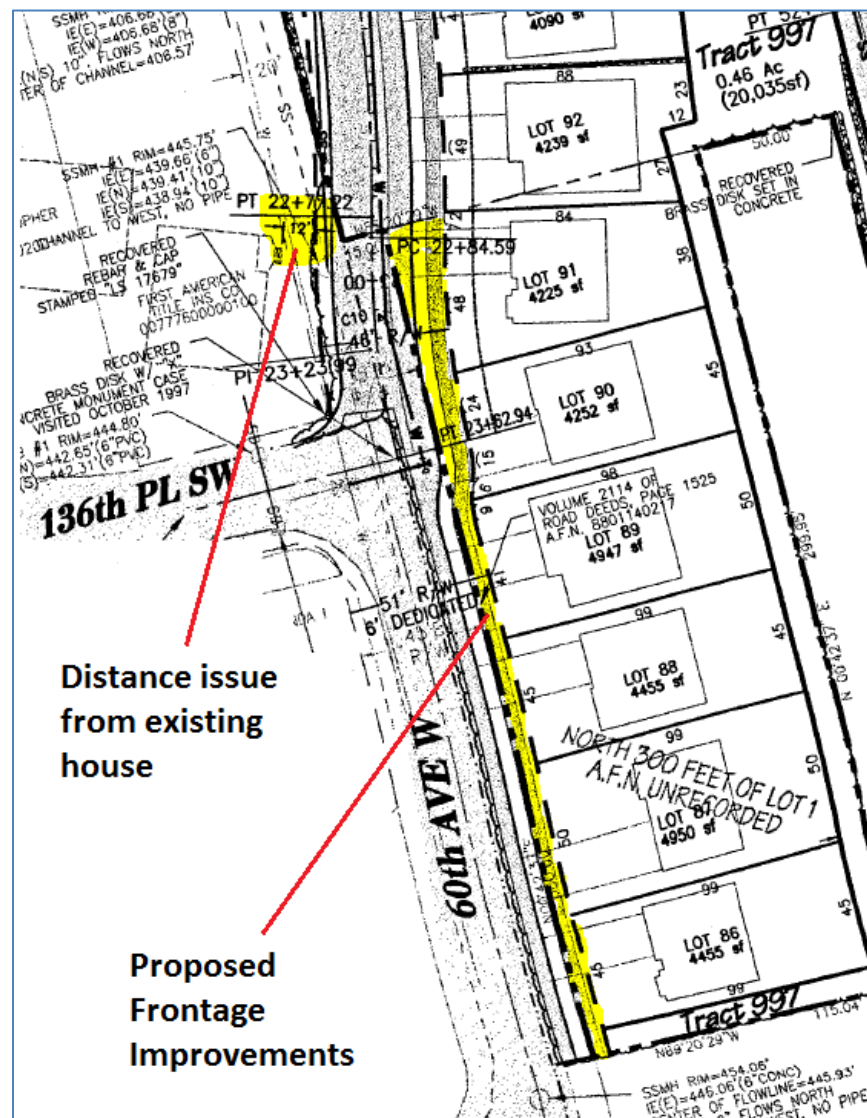
Trip Generation Based on Average Rates		
Type of trip	Calculation	Trips (rounded)
New average daily trips	112 lots x 9.57 ADT/lot x 0.95 TDM credit	1,018 ADT
New PM peak hour trips	112 lots x 1.01 PM PHT/lot x 0.95 TDM credit	107 PM PHT
New AM peak hour trips	112 lots x 0.75 AM PHT/lot x 0.95 TDM credit	80 AM ADT

Table 4 – Trip Generation Based on Average Rates

Frontage Improvements (SCC 30.66B.410)

All developments are required to make frontage improvements along any the parcel's frontage where public road construction is not to current standards. Most of the roads for Frogнал Estates are internal to the site, but a limited amount of frontage does not meet the Snohomish County Engineering Design and Development Standards (EDDS). Construction of frontage is required prior to recording of the final plat.

60th Avenue West: A six-foot dedication or right-of-way in front of lots 86 to 89, expanding in an irregular manner to the north line of lot 91 as shown on Figure 25, below. Improvements to include vertical curb, 5-foot planter strip, and 5-foot sidewalk as shown on Sheet C1, Exhibit B.1. See Condition F.1.a.



**Figure 25 – Proposed Frontage Improvements and House with Distance Issue
(Adapted from Exhibit B.1, Sheet C-1)**

Access and Circulation (SCC 30.66B.420)

The proposal includes access from 58th Place West and 60th Avenue West. There are no issues with the proposed access from 58th Place West.

A private road is proposed to connect to 60th Avenue West approximately half way up the hill. The private road is acceptable to DPW.

There is an existing house on the northwest corner of the intersection of 60th Avenue West and 136th Place SW located immediately outside of the proposed development of Horseman's Trail that is located closer to the right-of-way than is permitted by code (see Figure 25, previous page). The applicant is proposing to move the extension of 60th Avenue West eastward away from the house. The distance of the road right-of-way will be 12 feet and the distance of the new proposed road will be 17 feet from the existing house.

60th Avenue West does not meet EDDS for vertical curves, slope and design speed. The County Engineer approved a deviation on January 8, 2007 for slope, stopping and intersection sight distance along 60th Avenue West (Exhibit G.4). The County Engineer approved another deviation on September 2, 2005 for a modified design for sidewalks and planters throughout the proposed development. A condition of this deviation was that the walkways must not have stairs, and that mailboxes shall at locations served by the pedestrian trail system. Back yards adjacent to the trail system also must not be fenced or there must be a gate from each lot to the trail system. Any part of the trail system serving the public road shall be in a public easement.

The County Engineer gave approval for a deviation on June 2, 2006 for a slope of 15 percent at two locations along 60th Avenue West. The County Engineer gave approval for a related deviation on January 8, 2007 for a 20 mph design speed based on the following condition. The developer shall install street lighting at the sag curves along 60th Avenue West to provide adequate stopping and intersection sight distance for night driving.

Extent of improvements (*former* SCC 30.66B.430)

Former SCC 30.66B.430 authorizes the Public Works Director to require off-site improvements. See review under *former* Section 30.42B.140 - Roads, access, circulation, pedestrian facilities and parking for discussion of the off-site improvements being required.

Dedication of Right-of-Way (SCC 30.66B.510 and SCC 30.66B.520)

A development shall be required to dedicate, establish or deed right-of-way to the county for road purposes as a condition of approval of the development, when to do so is reasonably

necessary as a direct result of a proposed development, for improvement, use or maintenance of the road system serving the development (SCC 30.66B.510(1) and Condition F.1.a).

60th Avenue West has a designation of “non-arterial” on the County’s Arterial Circulation Map. This requires a right-of-way width of 30 feet on each side of the right-of-way centerline. 20 feet and 15 feet of right-of-way presently exist on the development’s side of the right-of-way. Therefore, 25 feet of additional right-of-way is required to make 60 feet of total right-of-way along 60th Avenue West and 58th Place West. The applicant has proposed 46 feet along 60th Avenue West, which is acceptable to DPW and 35 feet of right-of-way along the remaining internal public roads, which are acceptable to DPW.

In addition to the need for the Frognal Estates proposal to dedicate some new rights-of-way, three unopened rights-of-way will need to be vacated through a separate action as a condition before the recording of Frognal Estates (see Condition G.1). Unopened rights-of-way, or portions thereof, that would need vacation in order for the preliminary plat to move forward include:

- 58th Place West,
- 60th Avenue West, and
- 136th Street Southwest.

As of December 21, 2015, the applicant has made the request to Snohomish County Public Works to vacate the above rights-of-way. The department of Public Works is still reviewing the request. Scheduling of the hearing before the County Council regarding the request will take place after the review by Public Works is complete.

Transportation Demand Management (SCC 30.66B.610, 30.66B.630, SCC 30.66B.640)

Transportation Demand Management (TDM) is a strategy for reducing vehicular travel demand. Snohomish County identifies a number of measures that a developer may propose to meet their TDM requirement in SCC 30.66B.610(2). All new developments in the urban area shall provide TDM measures with the potential to remove a minimum of five percent of the development P.M peak hour trips per SCC 30.66B.630. To meet this TDM compatibility requirement, a basic pedestrian network is adequate under SCC 30.66B.640. For Frognal Estates, this includes site design features such as providing sidewalks or and other pedestrian improvements including the trail system shown in Exhibit B.2. This TDM plan submitted is acceptable. No additional TDM is required.

On-site feature for TDM compatibility, i.e. sidewalks and trails, must be constructed before any certificate of occupancy or final inspection will be issued per SCC 30.66B.640(4). See Condition G.2.

State Highway Impacts (*Former* SCC 30.66B.710)

When the traffic from a development will impact the state highway system, the County is authorized to use its SEPA authority consistent with the terms of the interlocal agreement between the County and the Washington State Department of Transportation to collect impact fees on behalf of WSDOT.

Frognal Estates is subject to the Washington State Department of Transportation (WSDOT)/County Inter-local Agreement (ILA) that became effective on applications determined complete on or after December 21, 1997.

A voluntary offer, acceptable to the State, signed by the applicant indicating their chosen method of fulfilling their mitigation requirement under the ILA, is required prior to providing a final recommendation. Comments from WSDOT accepting a voluntary offer for mitigation were received by PDS on August 30, 2005 (Exhibit K-12).

The offer was toward WSDOT Project No. DOT-11 (128th Street SW at I-5), which is projected to be impacted by 89 ADT at a rate of \$113.00/ADT for a total offer of \$10,096.16. However, the offer and acceptance toward WSDOT Project No. DOT-11 was based on the original submittal of Frognal Estates, Exhibit B.6, which had 116 lots. The per-lot offer and acceptance in Exhibit K-12 was \$87.04 per lot (as shown in Exhibit K-11). As the resubmittal of Frognal Estates (Exhibit B.1) took place after the WSDOT offer and acceptable and only had 112 lots the total revised offer to WSDOT will be \$9,748.48 (112 lots x \$87.04/lot). See Condition F.3.

Mitigation to City Streets (*Former SCC 30.66B.720*)

The terms of a Reciprocal Traffic Mitigation Interlocal Agreement (ILA) between the County and the other jurisdictions would determine mitigation requirements for impacts on streets inside nearby cities.

Based on the data submitted by the applicant (Exhibit C.2) it is unlikely this development will affect city streets or roads to the degree that would trigger ILA provisions.

Final Traffic Mitigation Recommendations

The PDS Transportation Section and the Department of Public Works have no objections to the approval of the subject application. Conditions are included at the end of this report to assure that the aforementioned traffic requirements are adhered to.

School Impact Mitigation (Chapter 30.66C SCC)

The proposal is subject to fees to mitigate school impacts under Chapter 30.66C SCC. Per SCC 30.66C.100, school impact mitigation fees will be determined according to the Base Fee Schedule in effect for the Mukilteo School District No. 06 at the time of building permit application. Fees will be and collected at the time of building permit issuance for the proposed new units. Credit shall be given for 3 existing lots per SCC 30.66C.150(4). Lots 1-3 shall receive this credit. A condition of approval has been included at the end of this report to assure compliance with the requirements of Chapter SCC 30.66C SCC. See Condition F.4.

Utilities

The appropriate utility providers have reviewed the Frogmal Estates proposal and do not object to its construction.

Sewer & Water: As indicated in correspondence received from the Alderwood Water and Wastewater District (Exhibits H. & H.2), water and sewer is available to serve the proposed new development.

Electricity: Electrical service is available from the Snohomish County PUD No. 1 (Exhibit H.10).

Snohomish Health District: The Snohomish Health District indicates that they have no objection to the plat as long as public water and sewer is provided (Exhibit H.9).

Additionally, all neighboring properties have sewer service, so the proposed plat construction will not affect any drainfields on neighboring properties.

CONCLUSIONS

- A. If the recommended preconditions and conditions are fulfilled, the proposed development will be consistent with the following applicable plans:
 - a. The Snohomish County Growth Management Act Comprehensive Plan;
 - b. The Paine Field Area Plan, including policies I1, I8, and I9 as well as the Environment and Resource Management Goal; and
 - c. The Possession Shores (Harbour Pointe) Master Plan.
- B. If the recommended preconditions are fulfilled, the proposed development will be consistent with the following applicable codes;
 - a. Division of Development requirements on the portion of the site subject to the Possession Shores contract rezone; and
 - b. GMA-based county codes, including:
 - i. The version of codes in effect at the time of project application, with the exception of the drainage requirements in Chapter 30.63A SCC where the code adopted in 2010 is the appropriate standard for review (including the Snohomish County Drainage Manual (2010), Snohomish County Engineering Design and Development Standards (EDDS) Chapter 5 Drainage);
 - ii. Drainage design for the project is subject to the minimum requirements (MR) identified in Chapter 30.63A SCC and the Drainage Manual;
 - iii. Grading design for the project is subject to the Land Disturbing Activity (LDA) code identified in Chapter 30.63B SCC;
 - iv. Provisions regulating the type and character of land uses proposed on the project site;
 - v. The permitted density; and
 - vi. Applicable design and development standards.
- C. If the recommended preconditions and conditions are fulfilled, the proposed development will be consistent with the State Environmental Policy Act (SEPA).
- D. If the recommended preconditions and conditions are fulfilled, the proposed development will be consistent with the mitigation measures in the Frogmal Estates PRD Environmental Impact Statement (Exhibit E.5) and requirements of the Corrected Division of Development Decision (Exhibit K.4).
- E. Adequate public services will be available to serve the property.
- F. Future development of the site will need to comply with county codes, which will assure adequate provisions for the public health, safety and general welfare.

STAFF RECOMMENDATIONS

On behalf of the Executive Branch, PDS and Public Works recommend **APPROVAL** of the requested **Plat Alteration of Regatta Estates** with the following **CONDITION**:

A. Plat Alteration Condition

Per the Corrected Division of Development Decision dated September 23, 2015 (Exhibit K.4), the applicant shall record a plat alteration for Regatta Estates that accomplishes the following:

1. Removal of Restriction No. 9, which required Lot 1 to be treated “essentially” as a Native Growth Protection Area;
2. Any ownership interest owner (or owners) of Lot 1 of Regatta Estates has (have) in Tracts 986 through 990 and 992 through 997 of Regatta Estates shall be diluted based on the number of new lots created on Lot 1 of Regatta Estates.

On behalf of the Executive Branch, PDS and Public Works recommend **APPROVAL** of the requested **Preliminary Plat** (Exhibit B.1) and **PRD Official Site Plan** (Exhibit B.1, sheets P1-3) with **PRECONDITIONS** and **CONDITIONS**:

Preliminary Plat and PRD Official Site Plan Preconditions

B. Submittal of Revised Preliminary Plat and Targeted Drainage Plan to Correct Errors and Omissions

The applicant shall submit a revised Preliminary Plat, PRD Official Site Plan and Targeted Drainage Plan (Exhibit B.1) for PDS to review and confirm that the revised submission meets all preconditions. The plan shall be prepared in general conformance with Exhibit B-1. Any discrepancy between the content of the landscaping plan and the performance standards of Title 30 SCC shall be resolved in favor of Title 30. Revised plans shall include the following:

1. On Sheet P1, update items under the headings Project Information and Legal Description to reflect:
 - a. A boundary line adjustment that has been completed;
 - b. The comprehensive plan designations in effect at the time of complete application;
 - c. Removal of Regatta Estates Lot 74 from the proposed action; and

- d. Other project information that may need recalculation after addressing subsequent comments on the PRD Official Site Plan (Exhibit B.1).
2. Update open space tracts to show native growth protection areas, consistent with *former* SCC 30.62.075 and mitigation measures identified in the FEIS (Exhibit E.5, page 1-19). NGPA areas shall include landslide hazard areas and undisturbed erosion hazard areas. NGPAs may include other areas where native vegetation is to be preserved. NGPAs may be in open space/NGPA tracts, separate NGPA tracts, or as NGPA easements on the open space tracts.
3. Calculate unit yield and bonus in a manner consistent with *former* SCC 30.42B.040. See comments in *Figure 14 – Comments on Unit Yield and Bonus Table from Exhibit B.1, Sheet P2* on page 37.
4. Calculate Minimum Net Density in a manner consistent with *former* SCC 30.23.020. See comments in *Figure 12 – Necessary Net Density Calculation Corrections (Exhibit B.1, Sheet P2)* on page 28.
5. Include a new sheet showing all building setback and proposed building footprints, to demonstrate that the proposal meets the applicable county code and to address issues found in review of *former* SCC 30.42B.145(2), *former* SCC 30.62.055(1)(a)(vi), *former* SCC 30.62.210, and building separation requirements of the fire code (Chapter 30.53A SCC).
6. Provide information sufficient to evaluate slopes on the active recreation facility (Tract 995) relative to *former* SCC 30.42B.115(3)(d).

C. Submittal of Revised of Landscaping Plan to Correct Errors and Omissions

The applicant shall submit a revised Landscaping Plan (Exhibit B.3) for PDS to review and confirm that the revised submission meets all preconditions. The plan shall be prepared in general conformance with Exhibit B-3 and in conformance with all required landscape standards. This submittal of an updated landscape plan shall be concurrent with submittal of an updated Preliminary Plat and PRD Official Site Plan (Exhibit B.1). Revised landscaping plans shall do the following:

1. Update the lot configuration and building footprint information consistent with Precondition B;
2. Add calculations that demonstrate consistency with *former* SCC 30.25.015 which requires landscaping on at least 10% of the site;

3. Update the Landscaping Plan (Exhibit B.3) to include a survey of significant trees outside designated critical areas that the plan proposed to retain. The survey does not need to include trees inside NGPAs. The survey shall include tree location and size per *former* SCC 30.42B.130(2);
4. Revision of the Landscape Planting Schedule to reflect that new “new evergreen and deciduous trees shall be at least eight feet high at time of planting” consistent with *former* SCC 30.25.015(5)(a).
5. The proposal shall comply with the Snohomish County tree retention requirements under *former* SCC 30.42B.130, or provide at least 477 new evergreen conifer and 727 new deciduous trees (1,204 trees total) in the developed portion of the subject property as indicated on the Landscape Plans (Exhibit B.3). This is consistent with mitigation measures to address stormwater runoff and lack of infiltration described in the FEIS (Exhibit E-5, page 1-26).

Preliminary Plat and PRD Official Site Plan Conditions

D. Construction Plans Prior to Initiation of Any Site Work

All site development work shall comply with the requirements of the plans and permits approved pursuant to Preconditions A and B. Before any site works begins prior to issuance of any development or construction permits by the county:

1. The applicant shall obtain a Land Disturbing Activity (LDA) permit from PDS. This permit shall include the site excavation plan, Temporary Erosion and Sediment Control (TESC) plan (also known as a Stormwater Pollution Prevention Plan (SWPPP)), landscaping plans for construction, and drainage plans and reports necessary for compliance with Chapters 30.63A (Drainage) and 30.63B (Land Disturbing Activity) SCC. The site excavation plan shall, to the extent practicable, balance on-site cut and fill volumes by redistributing cut material for use as fill. LDA permit will impose conditions to minimize or avoid potential adverse impacts associated with earthwork grading operations. (Corrected Division of Development Decision dated September 23, 2015 (Exhibit K.4) and FEIS (Exhibit E.5) mitigation measure (MM), page 1-19)
 - a. To control sediment transport and erosion during the wet season, seasonal work limitations shall apply. From October 1 through April 30, land disturbing activities may only be authorized if silt-laden runoff will be

prevented from leaving the site. (SCC 30.63A.450 Minimum Requirement 2, and (FEIS (Exhibit E.5) mitigation measure, page 1-22)¹²

- b. A site maintenance plan will be in place in the event that stormwater turbidity measures exceed Ecology standards, and to comply with Snohomish County Pollution Control (SCC 7.53 and FEIS (Exhibit E.5) mitigation measure, page 1-23)
- c. Global stability analyses shall be submitted to PDS which to demonstrate that retaining systems and fill prisms are stable. (FEIS (Exhibit E.5) mitigation measure, page 1-19)
- d. Retaining wall plans will be submitted. (FEIS (Exhibit E.5) mitigation measure, pages 1-19 to 1-20)
- e. All proposed retain wall systems shall be properly designed and analyzed by the project Geotechnical Engineer to confirm that adjacent slopes and off-site properties would not be impacted by development. (FEIS (Exhibit E.5) mitigation measure, page 1-20)
- f. The plans shall demonstrate that all slopes that will not be retained shall be constructed as engineered cut or fill slopes that do not exceed 2' horizontal to 1' vertical. (FEIS (Exhibit E.5) mitigation measure, page 1-19)
- g. Slopes shall be protected by erosion control measures until vegetation growth has been re-established. (FEIS (Exhibit E.5) mitigation measure, page 1-19)
- h. Topsoil on the proposal site shall be removed and stockpiled on-site for redistribution following site grading. (FEIS (Exhibit E.5) mitigation measure, page 1-20)
- i. The Land Disturbing Activity Permit shall limit work hours to 7 am until 5 pm to minimize noise impacts in the surrounding area during the grading phase of work. (FEIS (Exhibit E.5) mitigation measure, page 1-20)
- j. Soils that are to be reused around the site shall be stored in such a manner as to reduce erosion from the stockpile. Protective measures may include, but are not limited to, covering with plastic sheeting, the use of low stockpiles in flat areas, or the use of straw bales/silt fences around pile

¹² The relevant mitigation measure in the FEIS identifies slightly different dates, but where a difference exists, the provisions of Snohomish County Code shall apply.

perimeters. These measures shall be required during the period between October 1 and April 30. (FEIS (Exhibit E.5) mitigation measure, page 1-24)¹³

- k. No clearing shall be allowed until a significant tree retention plan is approved (*former* SCC 30.42B.130(8) Design criteria - tree retention).
- l. A certified arborist shall evaluate individual significant trees and stands of trees adjacent to existing or proposed homes to determine whether such trees represent a hazard. Hazardous trees may include those subject to windthrow, especially in narrow open space tracts such as along the west and south edges of the site (FEIS (Exhibit E.5), page 1-27). Landscaping construction plans may only show removal of hazardous, dead or diseased trees plan if the plans include a letter from a certified arborist stating the reasons for removal (*former* SCC 30.25.016).
- m. This condition would apply if the significant tree retention plan, as certified by an arborist, shows that significant trees should be removed, i.e. that there will be fewer significant trees retained than what the updated landscaping plans per Precondition C might show. If applicable, replacement of removed significant trees and accompanying adjustments to the construction landscaping plans shall comply with the tree replacement requirements in *former* SCC 30.25.016.
- n. To protect the retained trees onsite, construction plans shall include the tree protection fencing requirements of SCC 30.25.016(7).
- o. To assure completion of work and maintenance in compliance with provisions in Title 30, the applicant shall submit bond(s) or other performance securities for acceptance by PDS. See *former* SCC 30.25.043 (landscaping installation), *former* SCC 30.62.070 (critical areas protection); and *Former* SCC 30.63A.170, *former* SCC 30.63A.400, *former* SCC 30.63A.410(1), and *former* SCC 30.63B.240 (drainage and grading). With respect to drainage and grading bonds, the versions of code to which Frogmal Estates is vested require 150% bonds.
- p. Additional geotechnical engineering analysis shall be performed prior to issuance of the Land Disturbing Activity permit. This analysis will take into account the effects of seismic loading on foundations, slopes and retaining structures. (FEIS (Exhibit E.5) mitigation measure, page 1-22)

¹³ The FEIS give the date range as October 1 to March 31. However, SCC 30.63.A.450 says October 1 to April 30. Where the FEIS and Snohomish County Code differ, the more stringent mitigation shall apply.

- q. If during final engineering design and construction plan review the Geotechnical Analysis determines that the risk of erosion cannot be adequately managed in the proposed West Basin stormwater management system, any discharge from a detention facility in this system would be piped directly to the Picnic Point Road stormwater conveyance system. (FEIS (Exhibit E.5) mitigation measure, pages 1-25 to 1-26)
 - r. Detailed drainage modeling will be provided during final design to analyze surface and below-ground drainage, retaining wall drainage, and the function of the proposed stormwater management and water quality treatment system prior to the issuance of County permits for site clearing and grading. (FEIS (Exhibit E.5) mitigation measure, pages 1-26 to 1-27)
 - s. Compliance with the Ecology 2005 SWMMWW will require the site stormwater discharge to Picnic Point Creek to match developed discharge durations to pre-developed durations for the range of pre-developed discharge rates from 50 percent of the 2-year peak flow up to the full 50-year peak flow. (FEIS (Exhibit E.5) mitigation measure, page 1-28)
 - t. Additional analysis of the northeast drainage basin shall be performed during final design to evaluate the conveyance(s) from site discharge(s) to the Picnic Point Creek. (SCC 30.63A.200(2)(b) and FEIS (Exhibit E.5) mitigation measure, page 1-29)
 - u. The County Land Disturbing Activity Permit will require preparation and implementation of a Spill Prevention Control and Cleanup Plan (SPCCP) to be implemented by the construction contractor. (FEIS (Exhibit E.5) mitigation measure, page 1-28)
 - v. Where necessary to improve infiltration characteristics, native and fill soils may be amended with organic material to improve infiltration rates, or to improve drainage provided through lower-permeability soils to the underlying advance outwash. (FEIS (Exhibit E.5) mitigation measure, pages 1-21 to 1-22)
2. A forest practices permit shall be obtained for logging on the site per Chapter 30.43F SCC.
 3. Additional permits, as necessary, shall be obtained for off-site construction material sources. (FEIS (Exhibit E.5) mitigation measure, page 1-20)
 4. The platlor shall mark with temporary markers in the field the boundary of all Native Growth Protection Areas (NGPA) required by *former* Chapter 30.62 SCC,

or the limits of the proposed site disturbance outside of the NGPA, using methods and materials acceptable to the county.

5. All water, sewer, electrical and communication distribution and service lines shall be underground.
6. All proposed retaining wall systems shall be properly designed and analyzed by the project Geotechnical Engineer to confirm that adjacent slopes and off-site properties would not be impacted by the proposed development (FEIS (Exhibit E-5) mitigation measure page 1-20). Wall designs shall comply with the latest edition of the International Building Code adopted by Snohomish County.
7. The construction contractor would be required to obtain and comply with the conditions of a National Pollutant Discharge Elimination System (NPDES) Construction Stormwater Permit from the Washington Department of Ecology.
8. The construction plans shall show installation of street lighting at the sag curves along 60th Avenue West to provide adequate stopping and intersection sight distance for night driving (to comply with EDDS Deviation to Section 3-07, see Exhibit G.4).

E. During Construction

1. The area corresponding to the drip line of a retained significant tree or the outermost drip lines of a cluster/stand shall be properly identified and projected with clearly visible temporary fencing. No impervious surfaces, fill, or excavation or storage of construction materials shall be permitted within the temporary fencing area. (*former* SCC 30.42B.130(8) and FEIS (Exhibit E.5) mitigation measure, page 1-27)
2. A licensed geotechnical engineer shall be onsite (or on-call 24 hours/day) during grading and site construction activities. (FEIS (Exhibit E.5) mitigation measure, page 1-20)
3. The Geotechnical Engineer shall be required to be on-site to monitor the placement of fill in ravines and placement of any temporary ponds or drainage swales built within fill. (FEIS (Exhibit E.5) mitigation measure, page 1-25)
4. A Certified Erosion & Sedimentation Control Lead (CESCL) shall be on-site (or on-call 24 hours/day) during grading and site construction activities. (FEIS (Exhibit E.5) mitigation measure, page 1-25)

5. All TESC measures for a given area to be graded or otherwise worked shall be installed prior to any activity in that area. The sequence of construction in a given area shall be to install sediment traps and/or ponds, and establish perimeter flow control prior to the start of mass grading. (FEIS (Exhibit E.5) mitigation measure, page 1-23)
6. In accordance with the NPDES permit, the contractor shall maintain the site logbook, record implementation of the SWPPP and other permit requirements, record installation and maintenance of BMPs, record site inspections to be conducted by the (CESCL), and comply with and record the results of stormwater quality monitoring. (FEIS (Exhibit E.5) mitigation measure, page 1-25)
7. The Stormwater Pollution Prevention Plan (SWPPP) in accordance with Snohomish County Rule 3044 shall be implemented. (FEIS (Exhibit E.5) mitigation measure, page 1-25)
8. On-site erosion control inspections and turbidity monitoring shall be performed in accordance with Ecology requirements. Monthly reporting to Ecology shall be performed on a regularly-scheduled basis. TESC monitoring shall be part of weekly construction team meetings. (FEIS (Exhibit E.5) mitigation measure, page 1-24)
9. Temporary and permanent erosion control and drainage measures shall be adjusted and maintained, as necessary, at the time of construction. (FEIS (Exhibit E.5) mitigation measure, page 1-24)
10. Construction contractor(s) shall be responsible for routine inspection and proper maintenance of stormwater management facilities and Best Management Practices (BMPs) during site development. (FEIS (Exhibit E.5) mitigation measure, pages 1-24 to 1-25)
11. Check dams proposed in the West Basin stormwater management system shall be installed by hand or with minimally invasive equipment to protect existing vegetation. (FEIS (Exhibit E.5) mitigation measure, page 1-26)
12. Placement of the proposed drainage blanket and pipe to carry upstream flow through the west ravine fill shall be undertaken when there is no flow in the ravine. (FEIS (Exhibit E.5) mitigation measure, page 1-28)
13. During the wetter months when seasonal work limitation per SCC 30.63A.450(4) apply, or when large storm events are predicted during summer months, each work area shall be stabilized so that if showers occur, the work area can receive rainfall without excessive erosion or sediment transport. When season work limitations apply, areas that are to be left unworked for more than two days shall

be mulched or covered with plastic. During the summer months, stabilization can be accomplished by proof rolling the subgrade. The stabilization process will also include establishing temporary stormwater conveyance channels through work areas to route runoff to approved treatment facilities. (Exhibit K.20, SCC 30.63A.450, and FEIS (Exhibit E.5) mitigation measure, page 1-23)

14. Polyacrylamide may be applied to bare soil to reduce erosion and control sediment. If necessary, approved additives may also be used to enhance settlement of suspended sediments in temporary erosion/sedimentation control ponds during construction. All chemical treatment shall be as approved by the Department of Ecology (FEIS (Exhibit E.5) mitigation measure, pages 1-23 to 1-24)
15. All disturbed areas shall be revegetated as soon as practicable. If site work is performed outside of the growing season, disturbed areas shall be covered with mulch, as recommended in the Erosion Control Plan. Straw mulch provides the most cost-effective cover measure and can be made wind-resistant with the application of a tackifier after it is placed. (FEIS (Exhibit E.5) mitigation measure, page 1-24)
16. Surface runoff and discharge shall be controlled during and following site development. Under no circumstances shall concentrated discharges be allowed to flow over slopes greater than 33%. (FEIS (Exhibit E.5) mitigation measure, page 1-24)
17. Fill shall be placed as compacted structural fill under the direction of the project Geotechnical Engineer to provide the necessary strength properties for foundations and slope stability. (FEIS (Exhibit E.5) mitigation measure, page 1-20)
18. Construction activities shall comply with Washington Department of Ecology fugitive dust and odor emissions regulations cited in WAC 173-400-040.
19. Excavations for the installation of utilities during construction shall be stabilized by temporary measures such as trench boxes or sheet piles, or by laying back cut slopes in accordance with good practice as required by the Occupational Safety and Health Administration (OSHA). (FEIS (Exhibit E.5) mitigation measure, pages 1-20 to 1-21)
20. Reusable soil materials (e.g. topsoil) shall be stockpiled onsite for redistribution following site grading. (FEIS (Exhibit E.5) mitigation measure, page 1-20)

F. Final Plat

The following shall appear on the map(s) that are part of the final plat:

1. The final plat map shall show:
 - a. Right-of-way to be dedicated along the property frontage on 60th Avenue West, as shown on the approved preliminary plat; and
 - b. Access easements to drainage facilities (*former* SCC 30.63A.330).

The following additional restrictions and/or items shall be on the face of the final plat:

2. “Each new dwelling unit in this development is subject to park impact fees required under Snohomish County Code 30.66A.040 for the Nakeeta Beach Park Service Area. Impact fee credits for three pre-existing lots shall apply to Lots 1-3. The remaining lots shall be subject to the park impact fee. The fee rate in effect at the time of building permit issuance shall determine the cost of the fee. Payment of these mitigation fees is required prior to building permit issuance.”
3. “Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residential building permit:
\$2,054.68 per lot for mitigation of impacts on county roads paid to the county,
\$87.04 per lot for impacts to WSDOT project DOT-11 (128th Street SW at I-5) paid to the county,
These payments are due prior to or at the time of building permit issuance for each single-family residence per Chapter 30.66B SCC. Notice of these mitigation payment obligations shall be contained in any deeds involving this subdivision or the lots therein.”
4. “The lots in this subdivision will be subject to school impact mitigation fees for the Mukilteo School District. Fees will be per the certified amount in the Base Fee Schedule in effect at the time of building permit application. Fees will be collected prior to building permit issuance, in accordance with the provisions of SCC 30.66C.010. Credit shall be given for three pre-existing lots. Lots 1-3 shall receive credit.”
5. “Prior to building permit issuance verification of fire hydrant installation and written confirmation from the water purveyor of the minimum required fire flow and duration shall be provided. If the minimum required fire flow or duration cannot be met installation of an approved NFPA 13D fire suppression system shall be required for all dwelling units. Said system shall be installed and approved prior to any occupancy.”

6. “Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or access way fronting the property. Numbers shall contrast with their background Section 505.1 IFC.”
7. “Fire apparatus access shall not be obstructed in any manner including the parking of vehicles.”
8. “Membership in a homeowners association and payment of dues or other assessments for maintenance purposes shall be a requirement of lot ownership and shall remain an appurtenance to and inseparable from each lot.”
9. “All existing vegetation shall be retained within the Native Growth Protection Areas, with the exception of removal of hazardous trees and invasive weeds.”
10. “All development within the plat shall be consistent with the PRD Official Site Plan and the landscape and open space/recreation plans approved for construction under file number 05-123050 SD.”
11. "All NATIVE GROWTH PROTECTION AREAS shall be left permanently undisturbed in a substantially natural state. No clearing, grading, filling, building construction or placement, or road construction of any kind shall occur, except removal of hazardous trees. The activities in SCC 30.91N.010 are allowed when approved by the County.”
12. “All open space shall be protected as open space in perpetuity. Use of the open space tracts within this subdivision is restricted to those uses approved for the planned residential development. These uses include open play areas, picnic areas, recreation trail system, viewing platform, drainage facilities, benches and required landscape improvements as shown on the approved site plan and the approved landscape plan. Covenants, conditions and restrictions as recorded with the plat, and as may be amended in the future, shall include provisions for the continuing preservation and maintenance of the uses, facilities and landscaping in the open space as approved and constructed.”

G. Prior to recording of the final plat

1. Per the Corrected Division of Development Decision dated September 23, 2015 (Exhibit K.4), the applicant shall receive approval from Snohomish County to vacate unopened right-of-way within the development along the alignment of 58th Place SW, 136th Street SW and 60th Avenue West. The vacation of these rights-of-way shall be recorded before the recording of the final plat of Froggnal Estates.

2. The required offsite pedestrian improvements on 60th Avenue West shall be constructed to the specifications of Snohomish County (SCC 30.42B.140(6) and 30.66B.410).
3. Native Growth Protection Areas (NGPA) boundaries shall have been permanently marked on the site prior to final inspection by the county. Permanent marking means that NGPA signs and adjacent markers can be magnetically located, for example by rebar, pipe, or 20-penny nails. The platlor may use other permanent methods and materials provided they are first approved by the county. Where an NGPA boundary crosses another boundary such as a lot, tract, plat or road, the surveyor shall place a rebar marker with surveyors' cap and license number at the line crossing.

Placement of NGPA signs shall be no greater than 100 feet apart around the perimeter of the NGPA. The platlor shall place at least one Type 1 sign in any lot that borders the NGPA, unless otherwise approved by the county biologist. The platlor shall submit the design and proposed locations for the NGPA to PDS for review and approval prior to installation.

4. The platlor shall submit a bond or other guarantee of performance to PDS and receive approval from PDS that the guarantee assure compliance with the provisions of *former* SCC 30.42B.125.
5. The platlor shall record the articles of incorporation for the homeowners association with the County Auditor and furnish PDS with evidence of the recording (SCC 30.41A.675, *former* SCC 30.42B.210(6), and SCC 30.42B.250.
6. The applicant shall submit covenants, deeds and homeowners' association bylaws and other documents to PDS and receive approval for these documents. These documents shall:
 - a. Be prepared by the applicant and submitted together with documents otherwise required for maintenance of site improvements pursuant to SCC 30.42B.250;
 - b. Guarantee maintenance of open space, community facilities, private roads and drives, and all other commonly owned and operated property;
 - c. Include a certificate from an attorney stating that the documents comply with Chapter 30.42B SCC requirements prior to approval by PDS;
 - d. Ensure permanent, ongoing maintenance of landscape areas by way of landscape maintenance covenants; and
 - e. Take responsibility for the stormwater management system (per SCC 30.63A.350).

7. The applicant is to submit application to Snohomish Health District for final plat review and comment, accompanied by the current final plat review fee and a letter of water/sewer service to each lot from the provider.
8. Landscaping in the open space tracts and common areas shall be installed, inspected and approved in accordance with the approved site and landscape plans. A qualified landscape designer shall certify to the department that the installation complies with the landscape code and the approved plans. After installing the landscaping, the platlor shall prove PDS with a landscape maintenance bond or other maintenance security in an amount and form satisfactory to PDS.
9. Onsite Pedestrian facilities and recreational amenities depicted on the approved site and landscape plans shall be installed and inspected.
10. The platlor shall submit a bond or other performance security for the landscaping associated with the individual lots in the plat to PDS. After installation of the landscaping, the platlor shall provide a landscape maintenance bond or other maintenance security for the required landscape improvements, in an amount and form satisfactory to PDS per *former* SCC 30.42B.125(5)(b).
11. Urban frontage improvements shall have been constructed along the property frontage on 60th Avenue West to the specifications of Snohomish County (SCC 30.66B.410).
12. Identify proposed roads/road names with approved signs. Install temporary signs at each street intersection when construction of new roadways allows passage by vehicles. Signs shall be of an approved size and weather resistant. Maintain temporary signs until replaced by permanent signs.
13. Install “No parking fire lane” striping or signage along one side of the public roads and one side of the private road to ensure emergency vehicle access.
14. A geotechnical evaluation shall establish the appropriate setback from the landslide hazard area on Lots 23-26 (see review of *former* SCC 30.62.055(1)(a)(vi), *former* SCC 30.62.210 and FEIS (Exhibit E.5) mitigation measure, page 1-21).

H. Prior to building permit issuance for the single family dwellings

1. Verification of fire hydrant installation and written confirmation from the water purveyor of the minimum required fire flow and duration shall be provided. If the minimum required fire flow or duration cannot be met, installation of an approved

NFPA 13D fire suppression system shall be required for all dwelling units. Said system shall be installed and approved prior to any occupancy.

2. For Lots 23-26, final setbacks for individual buildings next to the top of a descending slope of a landslide hazard area will be established at the building permit stage using the adopted International Building Code (IBC) adopted by Snohomish County at the time a complete building permit application is received. (FEIS (Exhibit E.5) mitigation measure, page 1-21).

I. Prior to building occupancy of each structure

1. Installation of all required landscaping associated with the individual building lot shall be complete. A qualified landscape designer shall certify to the department that the installation complies with the code and the approved plans (former SCC 30.25.043).
2. A bond or other guarantee of performance shall be required for maintenance of landscape improvements in an amount and for satisfactory to the director of PDS prior to occupancy of any unit, consistent with *former* SCC 30.42B.125(5).
3. On-site feature for TDM compatibility, i.e. sidewalks and trails, shall be constructed before any certificate of occupancy or final inspection will be issued per SCC 30.66B.640(4).

J. General Conditions

1. All development activity shall conform to the requirements of Chapter 30.63A SCC.
2. Nothing in this permit/approval excuses the applicant, owner, lessee, agent, successor or assigns from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project.
3. Preliminary plats which are approved by the county are valid for five (5) years from their effective date and shall be recorded within that time period unless an extension has been properly requested and granted pursuant to Section 30.41A.300.

APPENDICES TO STAFF RECOMMENDATION

Appendix A: Codes in Effect at Project Submittal on August 4, 2005 or Otherwise Cited in the Staff Recommendation

This table lists the codes cited in this Staff Recommendation and identifies which of the later appendices the effective code language can be found. ***Effective code language is that which is found in the adopting ordinance.***

Snohomish County Code			Adopting Ordinance		Revising Ordinance	
Chapter	Section	Title	Number	Effective Date	Number	Effective Date
30.23	General Development Standards – Bulk Regulations (see Appendix B)					
	.020	Minimum net density for residential development in UGAs	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
30.25	General Development Standards – Landscaping (see Appendix C)					
	.010	Purpose	04-003	May 17, 2004	08-101	April 21, 2009
	.015	General landscaping standards	02-064	Feb. 1, 2003	07-084	Sept. 21, 2007
	.016	General tree retention and replacement requirements ¹⁴	08-101	April 21, 2009	14-073	Oct. 27, 2014
	.017	Type A and Type B landscaping	02-064	Feb. 1, 2003	08-101	April 21, 2009
	.020	Perimeter landscaping requirements	02-064	Feb. 1, 2003	05-038	Dec. 16, 2005
	.023	Stormwater flow control or treatment facility landscaping	02-064	Feb. 1, 2003	08-101	April 21, 2009
	.040	Landscaping modifications	04-003	May 17, 2004	09-077	Sept. 19, 2009
	.043	Landscaping installation	02-064	Feb. 1, 2003	09-077	Sept. 19, 2009
	.045	Landscaping maintenance	02-064	Feb. 1, 2003	10-086	Nov. 4, 2010
30.41A	Subdivisions (See Appendix D)					
	.100	Decision criteria - general	02-064	Feb. 1, 2003	05-083	Feb. 1, 2006
	.180	Decision criteria - minimum net density in urban growth areas	02-064	Feb. 1, 2003	Still in effect	
	.250	Density for sloping land	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.300	Preliminary subdivision approval - term	02-064	Feb. 1, 2003	09-019	June 25, 2009
	.330	Revisions after preliminary subdivision approval	02-064	Feb. 1, 2003	12-108	Jan. 25, 2013
	.675	Homeowners Association	02-064	Feb. 1, 2003	Still in effect	
	.700	Subdivision alteration	02-064	Feb. 1, 2003	Still in effect	
	.710	Application for subdivision alteration	02-064	Feb. 1, 2003	Still in effect	

¹⁴ This section was not in effect on October 4, 2005, but PDS finds it to be appropriate to the review of Frogmal Estates. See discussion under *Former* SCC 30.25.016 General tree retention and replacement requirements.

Snohomish County Code			Adopting Ordinance		Revising Ordinance	
Chapter	Section	Title	Number	Effective Date	Number	Effective Date
	.720	Procedure for subdivision alteration	02-064	Feb. 1, 2003	Still in effect	
	.730	Special notice requirements	02-064	Feb. 1, 2003	Still in effect	
	.740	Decision criteria	02-064	Feb. 1, 2003	Still in effect	
30.42B	Planned Residential Developments (see Appendix E)					
	.010	Purpose	02-064	Feb. 1, 2003	Still in effect	
	.020	Applicablity	02-064	Feb. 1, 2003	05-084	Feb. 1, 2006
	.040	Unit yield and bonus	04-003	May 17, 2004	06-061	Oct. 1, 2007
	.100	Design criteria - general	04-003	May 17, 2004	08-101	April 21, 2009
	.115	Design criteria - Open space	04-003	May 17, 2004	06-061	Oct. 1, 2007
	.125	Design criteria - landscaping ¹⁵	04-003	May 17, 2004	06-061	Oct. 1, 2007
	.130	Design criteria - tree retention ¹⁶	04-003	May 17, 2004	06-061	Oct. 1, 2007
	.135	Design criteria - drainage detention facilities	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.140	Design criteria - roads, access, circulation, pedestrian facilities, and parking	02-064	Feb. 1, 2003	08-101	April 21, 2009
	.145	Design criteria - bulk requirements	04-003	May 17, 2004	08-101	April 21, 2009
	.200	Approval of PRD official site plan - decision criteria	02-064	Feb. 1, 2003	15-025	May 24, 2015
	.210	Official site plan – effect and recording procedure	02-064	Feb. 1, 2003	10-086	Nov. 4, 2010
	.220	Revision of the official site plan	02-064	Feb. 1, 2003	13-050	Aug 28, 2013
	.250	Maintenance of site improvements	02-064	Feb. 1, 2003	Still in effect	
30.62	Critical Area Regulations ¹⁷ (see Appendix F)					
	.010	Purpose and applicability	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.030	Relationship to chapter 30.61 SCC	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.040	Designation of critical areas	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.055	Additional submittal requirements	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.060	Time period for review	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.070	Bond or performance security	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.075	Permanent protection for critical areas and buffers	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007

¹⁵ This section has a new title: “Design criteria - tree retention and landscaping.”

¹⁶ This section was repealed and combined with the landscaping section in .125.

¹⁷ The Critical Area Regulations in *former* Chapter 30.62 SCC were effectively superseded by three new chapters: 30.62A, 30.62B, and 30.62C (Wetlands and Fish & Wildlife Habitat Conservation Areas, Geologically Hazardous Areas, and Critical Aquifer Recharge Areas, respectively) under ordinance 06-061. What remained of *former* Chapter 30.62 only applied to certain agricultural activities until it was repealed entirely by Ordinance 13-042, which became effective on July 22, 2013.

Snohomish County Code			Adopting Ordinance		Revising Ordinance	
Chapter	Section	Title	Number	Effective Date	Number	Effective Date
	.100	Protection for fish and wildlife habitat conservation areas	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.200	Erosion hazard areas	04-024	Mar. 10, 2004	06-061	Oct. 1, 2007
	.210	Landslide hazard areas	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.240	Geotechnical report content requirements	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.365	Review criteria for development activities impacting critical areas and buffers	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.370	Innovative development design	04-024	Mar. 10, 2004	06-061	Oct. 1, 2007
30.63A	Drainage¹⁸ (see Appendix G)					
	.010	Purpose and applicability	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.020	Exemptions	02-064	Feb. 1, 2003	10-026	Sept. 30, 2010
	.060	Relationship to chapter 30.61 SCC	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.110	Snohomish County Drainage Manual ¹⁹	10-026	Sept. 30, 2010	Still in effect	
	.120	Drainage review for major development activities	02-064	Feb. 1, 2003	10-026	Sept. 30, 2010
	.140	Drainage review process	02-064	Feb. 1, 2003	10-026	Sept. 30, 2010
	.150	Targeted drainage plan submittal requirements	02-064	Feb. 1, 2003	10-026	Sept. 30, 2010
	.155	Full drainage plan submittal requirements	02-064	Feb. 1, 2003	10-026	Sept. 30, 2010
	.160	Revisions to drainage plans	02-064	Feb. 1, 2003	10-026	Sept. 30, 2010
	.170	Drainage inspection process	02-064	Feb. 1, 2003	10-026	Sept. 30, 2010
	.200	Drainage system requirements for all development activities with drainage plans	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.210	Drainage system requirements for major development activities	02-064	Feb. 1, 2003	10-026	Sept. 30, 2010
	.220	Erosion and sedimentation control requirements	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.250	Modifications or waivers of requirements	02-064	Feb. 1, 2003	10-026	Sept. 30, 2010
	.300	Maintenance responsibility for drainage facilities	02-064	Feb. 1, 2003	10-026	Sept. 30, 2010
	.330	Easements granted to county	02-064	Feb. 1, 2003	10-026	Sept. 30, 2010

¹⁸ SCC Chapter 30.63A Drainage, was repealed and replaced with a new drainage chapter that became effective on September 30, 2010 by [Ordinance 10-026](#).

¹⁹ SCC 30.63A.110 was not in effect when Froggnal Estates was submitted on October 4, 2005, but PDS finds it to be appropriate to the review of Froggnal Estates. See discussion under SCC 30.63A.110 and *former* 30.63A.250.

Snohomish County Code			Adopting Ordinance		Revising Ordinance	
Chapter	Section	Title	Number	Effective Date	Number	Effective Date
	.350	Maintenance covenant	02-064	Feb. 1, 2003	10-026	Sept. 30, 2010
	.360	Separate tracts for detention facilities	02-064	Feb. 1, 2003	10-026	Sept. 30, 2010
	.400	Security and insurance	02-064	Feb. 1, 2003	10-026	Sept. 30, 2010
	.410	Performance security - requirements	02-064	Feb. 1, 2003	09-077	Sept. 19, 2009
	.420	Warranty security - requirements	02-064	Feb. 1, 2003	09-077	Sept. 19, 2009
	.430	Maintenance security - requirements	02-064	Feb. 1, 2003	10-026	Sept. 30, 2010
30.63B	Grading²⁰ (see Appendix H)					
	.010	Purpose and applicablty	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.020	Exemptions	02-064	Feb. 1, 2003	10-023	Sept. 30, 2010
	.050	Relationship to other environmental regulations	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.060	Person responsible	02-064	Feb. 1, 2003	10-023	Sept. 30, 2010
	.080	Notice of application	02-064	Feb. 1, 2003	10-023	Sept. 30, 2010
	.100	Engineered grading	02-064	Feb. 1, 2003	10-023	Sept. 30, 2010
	.110	Reports on geotechnical engineering, soils engineering, engineering geology, and liquefaction	02-064	Feb. 1, 2003	10-023	Sept. 30, 2010
	.200	Issuance of grading permits	02-064	Feb. 1, 2003	10-023	Sept. 30, 2010
	.210	Grading permit expiration and renewal	02-064	Feb. 1, 2003	10-014	Apr. 29, 2010
	.220	Grading inspection	02-064	Feb. 1, 2003	10-023	Sept. 30, 2010
	.230	Completion of work	02-064	Feb. 1, 2003	10-023	Sept. 30, 2010
	.240	Bonds or performance security	02-064	Feb. 1, 2003	10-023	Sept. 30, 2010
	.250	Modification of permit conditions	02-064	Feb. 1, 2003	10-023	Sept. 30, 2010
	.310	Cuts or excavations	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.320	Fills or embankments	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.330	Setbacks for cuts or fills	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.340	Drainage and terracing	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	.350	Erosion control	02-064	Feb. 1, 2003	10-023	Sept. 30, 2010
30.66B	Concurrency and Road Impact Mitigation (see Appendix I)					
	.070	Record of development obligations	03-127	Nov. 17, 2003	10-086	Nov. 4, 2010
	.120	Concurrency determination – required	02-064	Feb. 1, 2003	Still in effect	
	.125	Concurrency determination – process	02-064	Feb. 1, 2003	Still in effect	
	.130	Concurrency determination – methodology	02-064	Feb. 1, 2003	Still in effect	
	.135	Development deemed concurrent	03-127	Nov. 17, 2003	05-092	Feb. 1, 2006
	.145	Concurrency determination-forecasting level-of-service	03-127	Nov. 17, 2003	Still in effect	

²⁰ SCC Chapter 30.63B Grading, was repealed and replaced with a new chapter titled “Land Disturbing Activity” by [Ordinance 10-023](#) which became effective on September 30, 2010.

Snohomish County Code			Adopting Ordinance		Revising Ordinance	
Chapter	Section	Title	Number	Effective Date	Number	Effective Date
	.155	Concurrency determination - expiration	03-127	Nov. 17, 2003	Still in effect	
	.210	Inadequate road condition determination and requirements	02-064	Feb. 1, 2003	Still in effect	
	.310	Road system impact fee	02-064	Feb. 1, 2003	Still in effect	
	.330	Fee schedule	02-064	Feb. 1, 2003	05-092	Feb. 1, 2006
	.340	Timing of road system impact fee payment	03-127	Nov. 17, 2003	10-085	Jan. 1, 2015
	.410	Frontage improvement requirements	02-064	Feb. 1, 2003	Still in effect	
	.430	Extent of improvements	02-064	Feb. 1, 2003	05-083	Feb. 1, 2006
	.510	Right-of-way requirements	02-064	Feb. 1, 2003	Still in effect	
	.520	Right-of-way widths	02-064	Feb. 1, 2003	Still in effect	
	.610	Transportation demand management - general	02-064	Feb. 1, 2003	Still in effect	
	.630	Transportation demand management - required	02-064	Feb. 1, 2003	Still in effect	
	.640	Transportation demand management – trip reduction credits for construction of onsite design features	02-064	Feb. 1, 2003	Still in effect	
	.710	Mitigation requirements for impacts to state highways	02-064	Feb. 1, 2003	10-072	Oct. 3, 2010
	.720	Mitigation requirements for impacts to city streets and roads in another county	02-064	Feb. 1, 2003	10-072	Oct. 3, 2010
30.70	General Provisions (see Appendix J)					
	.030	Submittal requirements	02-064	Feb. 1, 2003	Still in effect	
	.040	Completeness determination	02-064	Feb. 1, 2003	Still in effect	
	.210	Minor revisions to approved development applications	13-050	Sep. 19, 2012	Still in effect	
30.91	Definitions (see Appendix K)					
	C.340	Critical area	04-024	Mar. 10, 2004	06-061	Oct. 1, 2007
	E.150	Erosion	02-064	Feb. 1, 2003	Still in effect	
	E.158	Erosion Hazard	10-026	Sep. 30, 2010	Still in effect	
	E.160	Former Erosion Hazard Areas	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	E.160	Present-day Erosion Hazard Areas	06-061	Oct. 1, 2007	Still in effect	
	G.020	Geologic hazard areas (Geologically hazardous areas)	02-064	Feb. 1, 2003	Still in effect	
	L.040	Former Landslide hazard areas	02-064	Feb. 1, 2003	06-061	Oct. 1, 2007
	L.040	Present-day Landslide hazard areas	15-034	Nov. 1, 2015	Still in effect	
	N.035	Net density	02-064	Feb. 1, 2003	Still in effect	

Appendix B: Selected Sections Cited in Chapter 30.23 SCC General Development Standards – Bulk Regulations

Former SCC 30.23.020 Minimum net density for residential development in UGAs

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

- (1) A minimum net density of four dwelling units per acre shall be required in all UGAs for:
 - (a) New subdivisions, short subdivisions, PRDs, and mobile home parks; and
 - (b) New residential development in the LDMR, MR, and Townhouse zones.
- (2) Minimum net density is the density of development excluding roads, critical areas and required buffers, drainage detention/retention areas, biofiltration swales, and areas required for public use.
- (3) Minimum net density is determined by rounding up to the next whole unit or lot when a fraction of a unit or lot is 0.5 or greater.
- (4) For new subdivisions and short Subdivisions, the minimum lot size of the underlying zone may be reduced as necessary to allow a lot yield that meets the minimum density requirement. Each lot shall be at least 6,000 square feet, except as otherwise allowed by this title.
- (5) The minimum net density requirement of this section shall not apply:
 - (a) In the Darrington, Index, and Gold Bar UGAs; and
 - (b) Where regulations on development of steep slopes, SCC 30.41A.250, or sewerage regulations, SCC 30.29.100, require a lesser density.

Appendix C: Selected Sections from Chapter 30.25 SCC General Development Standards – Landscaping

Former SCC 30.25.010 Purpose.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003; Ord. 04-021, Mar. 31, 2004, Eff date Apr. 23, 2004; Amended Ord. 04-003, March 31, 2004, Eff date May 17, 2004)

(1) The purpose of this chapter is to establish standards for landscaping, tree retention and tree replacement to implement the policies of the comprehensive plan and to achieve the following objectives:

(a) Enhance neighborhood livability and mitigate potential land use incompatibility through landscaping and screening;

(b) Reduce tree loss during land development and construction; and

(c) Mitigate tree loss by providing for tree replacement.

(2) The provisions of this chapter should enhance compatibility between uses and zones and build continuity within neighborhoods while reducing the impacts of new development; and minimizing the visual impact of parking areas and detention facilities and other special uses that require screening from residential uses.

Former SCC 30.25.015 General landscaping requirements.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) All residential developments located within urban growth areas are required to landscape a minimum of 10 percent of the total gross area of the site to the standards set forth in this chapter unless exempted otherwise. The 10 percent requirement may include perimeter landscaping, parking lot and detention facility landscaping, tree retention areas and street trees not in a public right-of-way.

(2) No building permit shall be issued when landscaping is required until a landscaping plan has been submitted and approved by the department, if applicable.

(a) Landscaping plan requirements shall be defined by the department in a submittal requirements checklist, as authorized by SCC 30.70.030.

(b) The landscaping plan shall be prepared by a qualified landscape designer.

(c) The landscaping plan shall include an assessment of whether temporary or permanent irrigation is required to maintain the proposed landscaping in a healthy condition.

(d) Street trees and other right-of-way planting shall be shown on the approved landscaping plan.

(e) The landscaping plan shall include the location, caliper and species of all significant trees located on the site that are proposed to be removed.

(f) The landscaping plan shall include the location, caliper or height, and species of all replacement trees to be planted.

(g) The landscaping plan shall include a description of why significant trees cannot or should not be retained.

(h) The landscaping plan shall include a description and approximate location of any trees on adjoining properties that may be directly affected by any proposed activities.

(i) The landscaping plan shall show the clearing limits on the site of land disturbing activities.

(3) Planting areas outside of the right-of-way may include landscape features such as decorative paving, sculptures, fountains, rock features, benches, picnic tables, and other amenities; provided that the area devoted to such features may count toward no more than 20 percent of the total required perimeter and parking lot landscaping area. Use of bark, mulch, gravel, and similar non-vegetative material shall be minimized and used only to assist plant growth and maintenance or to visually complement plant material.

(4) An accessible route of travel meeting construction code barrier free requirements may cross a required landscape area at a 90 degree angle or as close to a 90 degree angle to the road right-of-way as conditions allow. The area devoted to an accessible route of travel in a required perimeter area may be included to satisfy the requirements of SCC 30.25.020.

(5) The following minimum planting standards apply, except that street trees required pursuant to SCC 30.25.015(8) shall comply with planting standards in the EDDS:

(a) Evergreen and deciduous trees shall be at least eight feet high at the time of planting;

(b) Deciduous trees shall have a minimum diameter of one and one-half inches caliper at the time of planting; provided that the combined diameter measurements of groupings of under-story trees, such as vine maples, may be used to meet this requirement;

(c) Evergreen and deciduous shrubs shall be at least 18 inches high at the time of planting;

(d) Trees shall be of a size and type projected to reach a height of at least 20 feet in 10 years, except where under-story or low-growing trees are specifically approved or required by the director; and

(e) Trees shall be planted at least five feet from adjoining property lines, except as may be approved for landscaping along road frontages pursuant to the EDDS and road frontage requirements.

(6) All landscape materials shall meet or exceed current United States standards for nursery stock published by the American Nursery and Landscape Association and consist of native species. The applicant shall use a list of acceptable species prepared by the director or may substitute a species with similar characteristics not on the list with the director's approval.

(7) To promote stabilization and continued healthy growth of the landscape areas required by this section, a qualified landscape designer shall determine the need for irrigation. An irrigation plan shall be submitted together with the required landscape plan.

(8) Street trees are required to be planted along public and private roads and drive aisles within urban growth areas on land developed for residential use according to the road cross section and general landscaping standards of the EDDS. Street trees are not required around turnarounds at the end of roads less than 150 feet in length.

(9) Street tree maintenance shall be as follows:

(a) Property owners shall be responsible for the maintenance (including pruning) and liability of street trees on their property, or where responsibility has been assumed by the owner through a recorded agreement with the county; and

(b) Utility work affecting street trees shall be limited to the actual necessities of the services of the company and such work shall be done in a neat and professional manner.

Former SCC 30.25.016 General tree retention and replacement requirements.

(Added Amended Ord. 08-101, Jan. 21, 2009, Eff date April 21, 2009)

(1) No person, corporation, or other entity engaged in residential land development or construction within unincorporated urban growth areas shall remove a significant tree without first obtaining county approval, except as provided in SCC 30.25.016(2). County approval shall be integrated into the permit review process for any activity requiring a county permit on a site where any significant trees are present.

(2) The following are exempt from the general tree and replacement requirements of SCC 30.25.016:

(a) Removal of any hazardous, dead or diseased trees, and as necessary to remedy an immediate threat to person or property as determined by a letter from a qualified arborist;

(b) Removal of trees within or adjacent to existing public rights-of-way or easements, at the direction of the county or public or private utility for the protection of the public safety, such as obstructions inhibiting visibility at intersections;

(c) Removal of trees for construction of a single-family dwelling, duplex, accessory or non-accessory storage structure on an individual lot created prior to April 21, 2009;

(d) Removal of trees that have been grown for the purpose of sales of Christmas trees or commercial landscaping materials by commercial nurseries and tree farms; and

(e) Any forest practices occurring on forest land as those terms are defined in RCW 76.09.020 of the Forest Practices Act, chapter 76.09 RCW.

(3) Certain types of applications are subject to special requirements so that neighborhoods are not adversely affected by increased density on sites where significant trees were removed prior to the application.

(a) These special requirements are applicable to all applications for the following:

(i) Single family detached unit development pursuant to chapter 30.41F SCC;

(ii) Planned residential development pursuant to chapter 30.42B SCC;

(iii) Subdivision or short subdivision using lot size averaging pursuant to SCC 30.23.210; and

(iv) Rezones pursuant to chapter 30.42A SCC, but only if the requested zoning designation allows a greater number of dwelling units per acre than the current zoning designation.

(b) The applicant shall attest in writing, to be acknowledged by a notary public, that no significant trees other than hazardous trees were removed from the site after January 7, 2009, and within six years prior to the date of the submission of the application.

(c) If any significant trees other than hazardous trees were removed after January 7, 2009, and within six years prior to the date of the submission of the application, then the application shall not be approved; provided that the application may be approved if:

(i) The removal of trees was authorized by a forest practices permit issued by the State Department of Natural Resources;

(ii) The public is notified of the prior removal of trees consistent with the posting, publication, and mailing requirements of SCC 30.70.045, and this notice may be combined with the notice for the underlying application;

(iii) A tree survey of all significant trees is completed and significant trees are replaced as required in Table 30.25.016(3);

(iv) All significant trees within any perimeter landscaping required under SCC 30.25.020 and all significant trees within critical area protection areas and required buffers are retained;

(v) All significant trees on site are retained on 5% of the site in addition to those retained as required in SCC 30.25.016(3)(c)(iv); and

(vi) The owner of the property at the time of tree removal is not a person, corporation, or other entity engaged in residential land development or construction within unincorporated urban growth areas.

(4) All significant trees within any perimeter landscaping required pursuant to SCC 30.25.020, on-site recreation space pursuant to SCC 30.23A.080, or critical area protection areas and required buffers shall be retained, except for trees exempted by SCC 30.25.016(2). All other significant trees that are removed shall be replaced by a number of new trees as set forth in SCC Table 30.25.016(3), except as may be modified by the provisions of SCC 30.25.016(5) and (6). The director may allow the removal of significant trees from the active on-site recreation space when it is determined to be necessary to allow for recreational facilities provided that all such trees are replaced in accordance with SCC Table 30.25.016(3).

Table 30.25.016(3) - Tree Replacement Schedule

Caliper of Tree Removed	Number of Replacement Trees Required
10 - 16 inches	1
16.1 – 24 inches	2
Over 24 inches	3

Notes: Multiple stem trees shall be counted as one significant tree.

(6) The number of required replacement trees shall be reduced by 30% if an additional buffer of 15 feet is provided around the edge of a subdivision and all significant trees and native understory in the buffer are retained. This buffer must be in addition to all buffer and landscaping requirements in the code, and it must be provided around the entire subdivision except where roads and other required infrastructure enter the subdivision.

(7) To assist in the preservation and retention of significant trees, the director may apply one of the following incentives:

(a) The on-site recreation space required by SCC 30.23A.080 may be reduced by up to 10 percent when at least 10 percent of site's significant trees (outside of any required perimeter landscaping or critical area protection areas and required buffers) are retained;

(b) The lot width or size may be reduced by up to 20 percent of that required by the underlying zone when at least 10 percent of the site's significant trees (outside of any required perimeter landscaping or critical area protection areas and required buffers) are retained;

(c) The overall landscape requirements may be reduced by up to 10 percent when at least 10 percent of site's significant trees (outside of any required perimeter landscaping or critical area protection areas and required buffers) are retained.

(6) Replacement trees must meet the following criteria:

(a) Replacement trees shall be planted on the site from which significant trees are removed, provided that replacement trees may be planted on another site in the immediate area approved by the director when a certified arborist finds, and the director concurs, that replacing those trees on the original site will result in increased likelihood of the trees not surviving;

(b) Replacement trees shall be planted in locations appropriate to the species' growth habit and horticultural requirements;

(c) Replacement trees shall be located in such a manner to minimize damage to trees or dwellings on properties adjoining the project site; and

(d) Significant evergreen trees proposed for removal must be replaced with a comparable evergreen native species as determined by the director.

(8) The following tree protection measures shall be taken during clearing or construction:

(a) Tree protective fencing shall be installed along the outer edge of the drip line surrounding the significant trees in order to protect the trees during any land disturbance activities, and fencing shall not be moved to facilitate grading or other construction activity within the protected area;

(b) Tree protective fencing shall be a minimum height of three feet, visible and of durable construction; orange polyethylene laminar fencing is acceptable; and

(c) Signs must be posted on the fence reading "Tree Protection Area."

(9) The director may allow a modification to the design of required frontage improvements to retain significant trees as street trees.

(10) A fine shall be imposed pursuant to SCC 30.85.090 for the removal of each significant tree in violation of SCC 30.25.016(1), unless the tree is replaced with a tree of the same size and type within the time period specified in a warning notice issued pursuant to SCC 30.85.080.

Former SCC 30.25.017 Landscaping types and standards.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

Where Type A or Type B landscaping is required, the following table containing the corresponding minimum standards per landscaping type shall apply:

Table 30.25.017
LANDSCAPING TYPES AND MINIMUM STANDARDS

Category of Landscaping	Type A	Type B
Performance Standard:	Create a dense sight barrier between uses and zones	Create a filtered screen between uses
Planting Standards:		
1. Tree mixture ^{1,3}	At least 75 percent evergreen with a variety of species required and up to 25 percent deciduous	Approximately 50 percent evergreen with a variety of species required and 50 percent deciduous
2. Tree planting pattern	Approximately 20 feet on center in triangular or offset pattern	Approximately 30 feet on center in triangular or offset pattern
3. Shrub mixture ²	At least 75 percent evergreen with a variety of species required and up to 25 percent deciduous	Approximately 50 percent evergreen with a variety of species required and 50 percent deciduous
4. Shrub planting pattern ²	Approximately three feet on center in triangular or offset pattern	Approximately five feet on center in triangular or offset pattern
5. Groundcover	Evergreen planted 12 inches on center in a triangular or offset pattern	Evergreen planted 12 inches on center in a triangular or offset pattern
6. Individual planting standards	Pursuant to SCC 30.25.015	
Notes:		
¹ The number of evergreen and deciduous trees and the spacing of the trees may be reduced by up to 50% within Type A or B landscaping when existing vegetation and significant trees are retained. The amount of permitted reduction shall be double the percentage of existing vegetation and significant trees retained.		
² As an alternative to shrubs, or in combination with shrubs, smaller deciduous and evergreen trees may be incorporated into the landscaping plan at a rate of not less than one tree per eight lineal feet with not more than 10 feet on center separation.		
³ The director may modify the mix of evergreen and deciduous trees and the spacing of the trees and reduce by up to 50% the number of trees required within a Type A or B landscape area inside or outside a stormwater facility perimeter fence for safety and security purposes.		

Former SCC 30.25.020 Perimeter landscaping requirements.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) To reduce incompatible characteristics of abutting properties with different zoning classifications, the minimum designated landscape width and type shall be required as a buffer between uses pursuant to SCC Table 30.25.020(1) unless exempted pursuant to SCC 30.25.020(4). When a development proposal has multiple uses or dwelling types, the most intensive use or dwelling type within 100 feet of the property line shall determine which perimeter landscaping requirements shall apply.

(2) Properties zoned RFS, CRC and RB shall provide a 50 foot Type A perimeter landscape buffer when adjacent to R-5, RD, RRT-10, A-10, F, F and R and Mineral Conservation. Properties zoned RI shall provide a 100 foot Type A perimeter landscape buffer when adjacent to R-5, RD, RRT-10, A-10, F, F and R and Mineral Conservation.

Table 30.25.020(1)
Perimeter Landscaping Requirements

		Zoning Classification of Adjacent Property																			
		R-9600, R-8400		R-7200		T, LDMR, MR		FS, NB, CB, PCB		GC		LI, HI		BP, IP		RB, RFS, RI		CRC		ALL OTHER ZONES	
		Width (in feet)	Type	Width (in feet)	Type	Width (in feet)	Type	Width (in feet)	Type	Width (in feet)	Type	Width (in feet)	Type	Width (in feet)	Type	Width (in feet)	Type	Width (in feet)	Type	Width (in feet)	Type
Proposed Use	Conditional Uses ⁴	20	A	20	A	20	A														
	Retail/Office and other Commercial uses	15	A	15	A	15	B												25	A	
	Business Park	25	A	25	A	15	B	10	B										25	A	
	Light Industrial ¹	25	A	25	A	15	B												25	A	
	Heavy Industrial ²	25	A	25	A	25	A												25	A	
	Single Family/Duplex/ Single Family Attached ⁵																		15	A	
	Cottage Housing ⁵	10	B																15	A	
	Multi-Family/ Townhouse ⁵	15	B	10	B														25	A	

Parking Lot	10	A	10	A	10	A												25	A	
Cell Towers ³	20	A	20	A	20	A	20	A	20	A	20	A	20	A	20	A	20	A	20	A
Stormwater Detention Facility	See SCC 30.25.023																			
Outside Storage and Waste Areas	See SCC 30.25.024																			
Large Detached Garages and Storage Structures	See SCC 30.25.026																			
Minerals Excavation and Processing	See SCC 30.25.027																			
Accessory Apartments and Temporary Dwellings	See SCC 30.25.028																			

Footnote 1: As defined by the Light Industrial zone in SCC 30.22.100 SCC.

Footnote 2: As defined by the Heavy Industrial zone in SCC 30.22.100 SCC.

Footnote 3: Cell towers means personal wireless telecommunications services facilities.

Footnote 4: Conditional uses located in a residential zone according to SCC 30.22.100, SCC 30.22.110 and SCC 30.22.120.

Footnote 5: Where residential development locates adjacent to existing commercial or industrial development and where no existing perimeter landscaping or buffer is located on adjacent commercial or industrial properties, the residential development shall provide a 10 foot wide Type A perimeter landscape area adjacent to the commercial or industrial properties.

(3) If a property abuts more than one zoning classification, the standards of that portion which abuts each zone of the property shall be utilized.

(4) Exceptions to SCC Table 30.25.020(1) shall be as follows:

(a) Where a development abuts a public road, the perimeter landscaping along the road frontage shall be 10 feet in width and contain Type B landscaping, except no perimeter landscaping is required in areas for required driveways, storm drainage facility maintenance roads, pedestrian trail connections, or where encumbered by utility crossings or other easements subject to permanent access and maintenance;

(b) When any portion of a project site is developed as usable open space or used as a permanently protected resource protection area, critical area protection area, or equivalent, the perimeter landscaping shall consist of Type B landscaping; and

(c) Where a perimeter lot abuts a utility or drainage easement greater than 15 feet in width, no perimeter landscaping will be required.

(5) All perimeter landscape areas shall be located within private easements to be maintained pursuant to SCC 30.25.045.

Former SCC 30.25.023 Stormwater detention facility landscaping.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Stormwater detention facilities and wetponds shall be landscaped to meet or exceed the standards set forth in this section except:

(a) In the LI and HI zones, only detention facilities and wetponds located between a public road and building are required to be landscaped; and

(b) When critical areas or their buffers are used for stormwater detention as allowed pursuant to chapter 30.62A SCC, the provisions of chapter 30.62A SCC shall apply instead of SCC 30.25.023.

(2) The department shall review proposed landscaping plans and may require revisions and upgrades to the proposed landscaping to ensure that landscaping provides an effective visual screen for fenced facilities without compromising safety, security and maintenance access, is able to endure expected inundation, and enhances the overall appearance of a detention facility.

(3) Where perimeter fencing of a detention facility is required, Type A landscaping at least six feet in height and six feet in width shall be installed at least five feet from the fence in order to create a maintenance access pathway. Where fenced facilities abut public rights-of-way, setbacks and height restrictions pursuant to SCC 30.23.100(3) shall apply.

(4) Where no fencing is required for landscaping within an open stormwater detention facility, the standards contained in the Department of Ecology 2005 Stormwater Manual for Western Washington - Volume V shall be utilized.

(5) Where fencing is not required and the unfenced detention facility is not completely screened as described in subsection (3) above, the facility shall be landscaped to improve its appearance subject to the following:

(a) If the detention facility is located adjacent to or near a natural, year-round stream or wetland, landscaping shall be designed to replicate and enhance natural or near-natural conditions; and

(b) The detention facility may feature terraces or steps to provide a safe pond edge and accommodate changes in water levels. In this case, landscaping must complement the terraced edge condition.

Former SCC 30.25.040 Landscaping modifications.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003; Amended Ord. 04-003, March 31, 2004, Eff date May 17, 2004)

(1) An applicant may request modification of landscaping requirements as part of project review.

(2) The decision maker (either the department or the hearing examiner) may approve a request for modification when:

(a) The proposed landscaping represents an equal or better result than would be achieved by strictly following the requirements of the code; or

(b) The proposed landscaping fulfills its intended purpose as described in this chapter, or when applicable, chapter 30.42B SCC.

(3) The decision on a request for general modification may be appealed as follows:

(a) As part of the project if the project is subject to administrative appeal; or

(b) As a Type I decision pursuant to chapter 30.71 SCC if the project is not subject to administrative appeal.

(4) Notice of the request and of the department decision or recommendation on a landscaping modification shall be provided:

(a) Pursuant to SCC 30.70.050 and 30.72.030 if the project is a Type 2 application; or

(b) Pursuant to SCC 30.70.050 and 30.71.040, if the project is a Type 1 application or is a project not subject to administrative appeal.

(5) In considering requests for modification of perimeter landscaping requirements, the following strategies shall be favored:

(a) Preservation of existing vegetation, particularly healthy trees standing 50 feet or more in height or other groupings of natural vegetation in consolidated locations;

(b) Better accommodation of existing physical conditions on site, including incorporation of elements to provide for wind protection or improve solar access;

(c) Incorporation of elements to protect or improve upon water quality;

(d) Increased landscaping width adjacent to residential uses or zones or in other strategic locations; and

(e) Provision of a unique focal point of interest or better useable open space.

(6) A modification is not required to provide more than the minimum width, density, or quality of landscaping.

Former SCC 30.25.043 Landscaping Installation

(Adopted by Ordinance 02-064, December 9, 2002, Eff date February 1, 2003)

(1) All required landscaping shall be installed and a qualified landscape designer shall certify to the department that the installation complies with the code and the approved plans prior to issuance of a certificate of occupancy or final approval of the building permit.

(2) The department may authorize up to a 180-day delay when a qualified landscape designer certifies that planting season conflicts could produce a high probability of plant loss.

(3) A performance security in amount sufficient to cover up to 150 percent of the cost of purchasing and installing the approved landscaping shall be required by the department if a planting delay is authorized.

Appendix D: Specific Code Sections Cited in Chapter 30.41A SCC

Former SCC 30.41A.100 Decision criteria - general.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) The hearing examiner and the department shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. The hearing examiner shall approve a preliminary subdivision only if appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, sites for schools and school grounds, fire protection and other public facilities. The hearing examiner shall consider all other relevant facts, including the physical characteristics of the site and sidewalks and other planning features that assure safe walking conditions for students who walk to and from school to determine whether the public interest will be served by the subdivision and dedication.

(2) If the hearing examiner finds that the proposed preliminary subdivision makes appropriate provisions for the matters listed in SCC 30.41A.100(1) and enters written findings that the subdivision conforms to all applicable development regulations and construction codes, then it shall be approved. If the hearing examiner finds that the proposed subdivision does not make such appropriate provisions or that development regulations requirements are not met, or the public use and interest will not be served, then the hearing examiner may deny the proposed preliminary subdivision.

(3) Dedication of land or payment of fees to any public body may be required as a condition of preliminary subdivision approval. Evidence of such dedication and/or payment shall accompany final subdivision approval.

(4) The hearing examiner shall not, as a condition of preliminary subdivision approval, require the applicant to obtain a release from damages from other property owners.

(5) All subdivisions are also subject to the requirements of chapters 30.32A and 30.32B SCC, regarding forest and agricultural lands and the right to practice forestry and to farm. In the event of a conflict between the provisions of this chapter and the forest and agricultural resource lands chapters, the resource lands chapters shall control.

30.41A.180 Decision criteria – minimum net density in urban growth areas

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

All residential subdivisions located in an urban growth area designated in the comprehensive plan shall maintain a minimum density of four dwelling units per net acre consistent with the minimum net density provisions of SCC 30.23.020.

Former SCC 30.41A.250 Density for sloping land.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

All subdivisions shall comply with applicable requirements of SCC 30.28.050 [sic²¹] regarding development on steep slopes. For other regulations affecting development activity on slopes see also SCC 30.62.200 - 30.62.250. In addition, the following requirements shall apply to all subdivisions:

(1) Determination of Slope. The applicant shall determine land slope and assess the applicability of this section. This information shall be provided to the department along with the completed application. In determining slope, the applicant shall obtain a topographic survey from a registered professional engineer or land surveyor which defines the slope of the property to a recognized and acceptable mapping standard. In all areas proposed for roads or dwellings, elevations of 90 percent of the area shall be within three feet of the actual ground elevations;

(2) Determination of Potential Maximum Dwelling Unit Density. The applicant shall determine maximum unit yield for the specified zones from Table 30.41A.250(2), except that this requirement shall not apply to a planned residential development combined with a preliminary subdivision; and

Table 30.41A.250(2)
RESIDENTIAL DENSITY FOR SLOPING LAND

Zoning	Dwelling units/Gross Acre			
	15-20% slope	21-25% slope	26-33% slope	Over 33% slope
Rural Conservation	.5	.5	.5	.25
SA 1-Acre	1.0	1.0	1.0	.25
R-20,000	1.8	1.8	1.8	.25
R-12,500	2.8	2.8	1.8	.25
R-9,600	4.0	2.8	1.8	.25
R-8,400	4.0	2.8	1.8	.25
R-7,200/WFB	4.0	2.8	1.8	.25

Slope means an inclined ground surface, the inclination of which is expressed as a rating of horizontal distance to vertical distance. Slope percentages are calculated by taking the vertical rise over the horizontal run. For land areas greater than 15 percent natural slope, maximum unit yield in the identified zones shall be determined by multiplying the gross site area by the appropriate density factors found in SCC Table 30.41A.250(2). For the purpose of this table, a continuous slope with a horizontal run of less than 50 feet shall be considered level when the slope percentage is less than 33 percent.

²¹ This reference to SCC 30.28.050 in *Former* SCC 30.41A.250 was in error. SCC 30.28.050 addresses home occupations. Ordinance 14-053 corrected the error in 2014.

(3) The department may require engineering or other technical justification for development in sloped areas where it determines that the public health, safety, welfare, or environment may be jeopardized by the proposed development.

Former SCC 30.41A.330 Revisions after preliminary subdivision approval.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

Approved preliminary subdivisions may be revised prior to installation of improvements and recording of the final subdivision. Revisions that are generally consistent with the approved preliminary subdivision, which do not alter conditions of preliminary approval and do not adversely affect public health, safety, and welfare may be administratively approved by the department; provided that any increase in trip generation or change in access points shall be reviewed pursuant to SCC 30.66B.075. Any other change shall require processing as a new preliminary subdivision. Relevant county departments and agencies shall be notified of any administrative revision. A revision does not extend the life or term of the preliminary subdivision approval, which shall run from the original date of preliminary approval.

Present-day SCC 30.41A.330 Revisions after preliminary subdivision approval.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003; Amended by Amended Ord. 12-108, Jan. 9, 2013, Eff date Jan. 25, 2013; Amended by Amended Ord. 13-050, Aug. 28, 2013, Eff date Sept. 19, 2013)

Revisions of approved preliminary subdivisions prior to installation of improvements and recording of the final subdivision shall be processed pursuant to SCC 30.70.210 or 30.70.220.

SCC 30.41A.675 Homeowners association.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

A homeowners association established for purposes of tract ownership and maintenance pursuant to this title shall be incorporated as a profit or non-profit corporation and shall remain the owner unless tract ownership by all lots within the subdivision is authorized pursuant to a final plat alteration. In the event that a homeowners association established pursuant to this title should be dissolved, then each lot shall have an equal and undivided ownership interest in the tracts previously owned by the association as well as responsibility for maintaining the tracts. A covenant that requires maintenance of the tracts consistent with county code, that restricts use of the tracts to that specified in the approved preliminary plat, and that requires compliance with those county regulations and conditions of final subdivision approval specified on the plat, must be approved by the County and recorded with the County Auditor. Said covenant shall be binding upon and inure to the benefit of the homeowners association, the owners of all lots within the subdivision and all others having any interest in the tracts or lots. Prior to the recording of the final plat, the department shall receive evidence that the articles of incorporation

for the homeowners association have been filed. In any subdivision containing a homeowners association approved pursuant to this title, membership in the homeowners association and payment of dues or other assessments for maintenance purposes shall be a requirement of lot ownership and shall remain an appurtenance to and inseparable from each lot.

Appendix E: Former Chapter 30.42B SCC Planned Residential Development

SCC 30.42B.010 Purpose.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

The purposes of this chapter are to:

- (1) Provide an alternative form of development within urban growth areas (UGAs) to traditional subdivision which allows flexibility and creativity in site layout and design and protects critical areas through the use of open space;
- (2) Provide for small and large scale developments incorporating a variety of housing types and related uses, that are planned and developed as an integral unit;
- (3) Promote the efficient use of land by allowing a flexible arrangement of buildings and lots, circulation systems, land uses, and utilities;
- (4) Promote the combination and coordination of architectural styles, building forms, and building relationships within a development;
- (5) Preserve the value, character, and integrity of surrounding areas which have been, or, are being developed under traditional zoning regulations;
- (6) Provide for the integration of new development into the existing community while protecting and preserving the value of the surrounding neighborhood;
- (7) Provide the opportunity for affordable housing to meet the needs of a wide range of income and age groups;
- (8) Encourage the preservation of existing natural site features such as trees, topography, and geologic features;
- (9) Create permanent, useable and commonly owned open space for both active and passive recreation to serve the development; and
- (10) Implement the policies of the comprehensive plan.

Former SCC 30.42B.020 Applicability

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

- (1) A PRD is permitted only within UGAs in the R-9,600, R-8,400, R-7,200, LDMR, and MR zones; except that a PRD shall not be permitted in the R-9,600 zone within the Lake Stevens UGA.
- (2) A retirement apartment or retirement housing PRD is permitted only within the LDMR, MR, NB, PCB, CB, and GC zones.
- (3) A PRD is not permitted in the rural area, except in the R-5 zone when consistent with Policy LU 6.A.7 of the comprehensive plan.
- (4) Except for the retirement apartment and retirement housing PRDs, the density of a PRD shall be consistent with the land use designation identified in the comprehensive plan.

Former SCC 30.42B.040 Unit yield and bonus.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003; Amended Ord. 04-003, March 31, 2004, Eff date May 17, 2004)

(1) For all PRDs, except retirement apartment and retirement housing PRDs, the maximum number of dwelling units permissible shall be 120 percent of the maximum number of units permitted by the underlying zone as determined in SCC 30.42B.040(2), unless adjusted per the provision of SCC 30.42B.040(3).

(2) The maximum number of dwelling units permitted in a PRD shall be computed as follows:

(a) Determine the net development area on the project site. Net development area is the gross site area (in square feet) less critical areas and their buffers, lakes, and ponds.

(b) Divide the net development area by the minimum lot area permitted by the underlying zone, or where LDMR and MR standards apply, by 4,000 square feet and 2,000 square feet respectively. For retirement apartment PRDs and retirement housing PRDs in the LDMR zone divide by 4,000 square feet and in the MR and divide by 2,000 square feet.

(c) Divide the area comprised by critical areas and their buffers by the minimum lot area of the underlying zone used for the calculations in SCC 30.42B.040(2)(b).

(d) Add the numerical unit yield results of subsections SCC 30.42B.040(2)(b) and (2)(c) and multiply the resulting number of units by 2.2 for retirement housing PRDs, 1.54 for retirement apartment PRDs, and 1.2 for all other PRDs.

(3) In the R-7,200, R-8,400, and R-9,600 zones, the maximum number of dwelling units allowed pursuant to SCC 30.42B.040(2) shall be reduced so that the maximum net density (number of dwelling units per net acre in the net development area) does not exceed nine dwelling units per net acre. Except that, a maximum net density of 12 dwelling units per net acre is allowed when the PRD is accepted in the reduced drainage discharge housing demonstration program in chapter 30.34B SCC.

Whenever the calculated number of dwelling units results in a fractional equivalent of 0.5 or more, the fraction shall be rounded up to the next whole number, fractions less than 0.5 shall be rounded down.

Former SCC 30.42B.100 Design Criteria – General.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003; Amended Ord. 04-003, March 31, 2004, Eff date May 17, 2004)

(1) The design criteria contained in SCC 30.42B.100 through 30.42B.150 are applicable to all PRDs.

(2) Unless specifically modified by this chapter, all requirements of the underlying zone shall apply within the PRD.

(3) PRDs located in the R-7,200, R-8,400, and R-9,600 zones and that are not accompanied by a concurrent subdivision or short subdivision approval, wherein each dwelling unit is to be placed on a single lot, shall be subject to a declaration of condominium pursuant to chapters

64.32 and/or 64.34 RCW. The applicant shall commit to use of the condominium provisions at the time of PRD application.

(4) All housing types listed in the bulk requirements table of SCC 30.42B.145(2) shall be allowed in any PRD in the zones specified in SCC 30.42B.020, except as follows:

(a) Single family dwellings shall not be permitted in the Multiple Residential (MR) zone;

(b) Multifamily dwellings shall not be permitted in the R-7,200, R-8,400 and R-9,600 zones, except that, a multiple family structure containing three or four dwellings units shall be permitted when the PRD is accepted in the reduced drainage discharge housing demonstration program of chapter 30.34B SCC, and approved consistent with the provisions of the program; and

(c) Single family dwellings, duplexes, townhouses, and multiple family structures containing three or four dwellings units shall not be permitted in the R-7,200, R-8,400, or R-9,600 zones without concurrent subdivision or short subdivision approval, or condominium approval for all dwelling units.

(5) Townhouse development in a PRD shall not be subject to the requirements of SCC 30.22.100 and 30.22.120, or the standards specified in chapter 30.31E SCC.

Former SCC 30.42B.115 Design criteria – open space.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003; Amended Ord. 04-003, March 31, 2004, Eff date May 17, 2004)

(1) Total open space shall be provided in every PRD consistent with the following standards:

(a) Within a PRD, a minimum of 20 percent of the gross site area shall be established as total open space;

(b) Total open space shall be used for:

(i) usable open space;

(ii) critical areas and their required buffers;

(iii) site perimeter landscaping and other required landscaped areas outside of right-of-ways;

(iv) landscaped, unfenced stormwater detention/retention ponds; and

(v) all other open space areas owned in common by all residents or owners in the PRD, but not including items listed in SCC 30.42B.115(1)(c);

(c) total open space shall not include any of the following:

(i) lots, dwellings, and associated private yards, outdoor storage areas, and building setback areas;

(ii) public or private street right-of-way including sidewalks and planter strips;

(iii) parking lots, driveways and other areas of motorized vehicle access;

(iv) stormwater detention or retention ponds which are fenced; or

(v) submerged lands when not defined as critical areas pursuant to chapter 30.62

SCC.

(d) Where possible, open space tracts shall be located adjacent to permanently designated open space areas on adjacent properties;

(e) Total open space shall be permanently established in clearly designated, separate tracts. Tracts shall be owned by:

(i) the landowner, when no individual building lots are created and the property is held under single ownership;

(ii) all lot owners and condominium owners jointly, with an equal and undivided interest; or

(iii) a homeowners association, when consistent with SCC 30.42B.210(6);

(f) Total open space shall be protected in perpetuity by a recorded covenant, in a form approved by the director. The recorded covenant must restrict uses of the total open space to those specified in the approved PRD site plan and must provide for the maintenance of the total open space in a manner which assures its continuing use for the intended purpose; and

(g) The applicant shall propose a method for separating private use areas from adjacent open space tracts within the PRD that is acceptable to the department. The type of permanent marking of the open space tracts proposed shall provide a clear and distinctive separation of properties at the open space boundary.

(2) Usable open space shall be provided as a component of total open space and shall be consistent with the following standards:

(a) Usable open space shall be developed for active and/or passive recreation purposes that serve the needs of the PRD residents. Usable open space shall consist of buildable land areas that do not contain:

(i) critical areas and their buffers; and

(ii) utility easements that exist on the project site at the time of application submittal;

(b) The following are examples of active and passive recreation activities that may be allowed in usable open space:

(i) open play areas;

(ii) pedestrian or bicycle paths;

(iii) picnic areas with tables and benches;

(iv) gazebos, benches and other resident gathering areas;

(v) community gardens;

(vi) any active recreation use listed in subsection 3 below;

(vii) nature interpretive areas;

(viii) flower gardens when in conjunction with pedestrian paths, and

(ix) unfenced detention ponds consistent with the provisions of SCC

30.42B.125(2)(b)(ii);

(c) The total site requirement for usable open space shall be no less than 600 square feet per dwelling unit: except that usable open space for retirement apartments and retirement housing on sites of any size shall be 200 square feet per dwelling unit;

(d) Forty percent of the required usable open space shall be located in a single open space tract or permanent easement. Alternatively, the applicant shall be permitted to satisfy this requirement when no more than three open space tracts are created that provide a comparable open space use to that otherwise required. Power line, utility rights-of-way and other similar easement may be incorporated into useable open space and counted towards the open space requirements of this section, provided they are developed with active recreational improvements. Remaining usable open space shall be adequate in design and size for the intended passive and/or

active recreation. No usable open space shall have any dimension less than 20 feet (except for segments containing trails, which shall not be less than 10 feet in width), unless the applicant can demonstrate and the director of the department can concur, that a lesser dimension will not inhibit the use of the open space for its designated purpose;

(e) Usable open space shall be accessed by all-weather pedestrian pathways and/or sidewalks from all lots and dwellings within the PRD;

(f) Usable open space designed for children shall not be located adjacent to any street designated as a collector/arterial unless properly designed with fencing, located away from street edges and other provisions to ensure adequate child safety. Usable open space designed for children shall be open, accessible, and visible from adjacent dwellings in order to enhance security;

(g) Usable open space shall have the appropriate location, slope, soils, and drainage to be considered for recreational development;

(h) Usable open space shall not contain above ground utility transmission lines and associated easement or right of way;

(i) Usable open space shall be landscaped pursuant to the provisions of SCC 30.42B.125(1), and in accordance with the required landscape plan in a manner that enhances the design of the open space while not conflicting with the function of the proposed recreation use; and

(j) Any buildings, structures, and improvements to be permitted in the usable open space shall be those appropriate to the proposed uses.

(3) Active recreation uses shall be provided as follows:

(a) A minimum of 30 percent of all usable open space within PRDs with 10 or more lots or dwelling units shall be developed for active recreation uses. The type(s) of active recreation uses provided shall, to the extent possible, correspond to anticipated needs of the potential residents of the PRD;

(b) Active recreation uses shall consist of one or more of the following:

- (i) sport court;
- (ii) tot lot with play equipment (soft surface);
- (iii) open play area or sports field (grass or other pervious surface);
- (iv) indoor recreation center for youth, adult and/or seniors containing exercise and game rooms, sport courts and other community activities;
- (v) swimming pool;
- (vi) similar uses; and
- (vii) any other active recreation use approved by the director;

(c) The active recreation requirement may be reduced by up to 30 percent, subject to approval by the director, for projects of 20 or fewer dwelling units, if pedestrian access is constructed to an adjacent off-site public recreation area that contains an active recreation use that meets the needs of residents within the PRD and is approved by the off-site recreation provider;

(d) The active recreation facility shall be located on a reasonably level site with slopes no greater than six percent unless the applicant can demonstrate that the recreation facility can function adequately on greater slopes; and

(e) Tot lot areas shall meet all safety recommendations and construction specifications of the manufacturer of the equipment used.

Former SCC 30.42B.125 Design criteria – landscaping.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003; Amended Ord. 04-003, March 31, 2004, Eff date May 17, 2004)

All PRD proposals shall provide the following site landscaping in addition to landscaping required in chapter 30.25 SCC:

(1) Usable open space shall be landscaped in a manner appropriate for the proposed recreation uses;

(2) Drainage detention facilities shall meet the following landscaping criteria:

(a) Where fencing of a detention facility is required, Type A landscaping (densely planted sight-obscuring screen) at least six feet in height, or living fence at least three feet in height which will grow to at least eight feet in height within three years shall be installed in an area with a minimum width of six feet along the outside edge of the fence. Where fenced facilities abut public rights-of-way, setbacks and height restrictions per SCC 30.23.100(3) shall apply. The director shall provide a listing of acceptable plant species to be used for a "living fence";

(b) Where fencing is not required and the detention pond is not completely screened as described in (a) above, surface detention facilities shall be landscaped in one or more of the methods provided in (i) through (iii) of this subsection. When landscaping is provided pursuant to this subsection, the detention ponds shall count toward the total open space requirements of SCC 30.42B.115(1);

(i) if the detention facilities are located adjacent to or near a natural, year-round stream or wetland, these systems shall be landscaped to replicate natural or near-natural conditions.

(ii) if the open detention pond is sized and designed to be dry on the average of at least six months a year, it may be planted in grass or paved to provide useable open space. No more than 50 percent of the area of such a pond may be counted toward the usable open space requirements of SCC 30.42B.115 if the pond is an open detention pond. Such ponds may be used to satisfy up to 30 percent of the required usable open space. In such cases, finished contours and access must allow the intended use and function.

(iii) the detention pond may feature terraces or steps to provide a safe pond edge and accommodate changes in water levels. In this case, landscaping must complement the terraced edge condition.

(iv) ponds may incorporate two or more of the methods from (i), (ii), and (iii) above. Trails or walkways may be incorporated into the landscaping. Project applicants may submit other methods for the department's consideration; and

(c) All detention areas shall be landscaped in a manner which is both aesthetic and able to successfully endure the expected inundation. All proposed landscaping screens around detention ponds are subject to department approval; and

(3) Site perimeter landscaping shall be established as a tract or easement along any property boundary of a PRD where adjacent property is currently used for single family residential purposes, or is zoned or designated for single family residential use:

(a) Except for any portion developed as usable open space pursuant to SCC 30.42B.115 or as permanently protected as Native Growth Protection Area (NGPA) or equivalent, the perimeter landscaping shall consist of a vegetative screen located along the perimeter of the PRD site with a minimum planting bed width of no less than 15 feet when adjacent property is not developed as a PRD, except as follows:

(i) Where proposed perimeter lots have rear yards abutting road frontage, a 10 foot type B landscape buffer shall be provided, except in areas for required driveways, project roads, storm drainage facility maintenance roads, pedestrian trail connections, or where encumbered by utility crossings or other easements subject to permanent access and maintenance (if the buffer separates the abutting road from a home within the lot, the buffer may be contained within a minimum 10 foot wide easement within the lot); or

(ii) Where the perimeter of a PRD abuts a utility easement greater than 15 feet in width, no perimeter landscaping will be required; or

(iii) When the front or side yards of the perimeter lots of a PRD abut a road frontage, no site perimeter landscaping will be required other than street landscaping pursuant to SCC 30.42B.125(4); or

(iv) When the perimeter of the PRD abuts a non-residential zone, no site perimeter landscaping will be required; or

(v) When the perimeter of the PRD abuts a property that currently contains adjacent buffer areas, including formally designated NGPAs, open space, landscaping buffers, mapped critical areas, or where adjacent abutting rear yards are 40 feet or greater in depth, no site perimeter landscaping will be required; or

(vi) When the perimeter of the PRD abuts another property zoned PRD, no site perimeter landscaping will be required; or

(vii) Where the proposed perimeter lots have a minimum area of 6000 square feet or are at least 100 feet in depth, no site perimeter landscaping will be required; or

(viii) Where all of the rear yards along the entire length of the abutting perimeter PRD boundary are at least 1200 square feet in area and at least 30 feet in average depth, no site perimeter landscaping shall be required; or

(ix) Where the proposed access connection to the existing street system along the perimeter of a PRD is required to meet minimum stopping and/or entering sight distance requirements, the required site perimeter landscaping may be reduced or eliminated as necessary to achieve compliance; or

(x) In proposed mixed use PRDs no perimeter buffering, landscaping or other visual barriers will be required between the phases or divisions within that mixed use project.

(xi) The director may waive all or part of the required perimeter buffer where an applicant can demonstrate that a six foot high solid fence will provide equal or greater perimeter screening.

(b) The landscape area shall consist of clusters or solid rows of plant materials and comply with the following:

(i) One tree for every 25 feet of lineal feet of buffer. Trees may be grouped in clusters, but at no time shall they be spaced greater than 50 feet apart. Trees must be 66% evergreen species with conifers at least 6 feet in height at the time of planting and deciduous trees at least 1 and 3/4 inch caliper at the time of planting. Shrubs shall be placed 6 feet on center and shall consist of 66% evergreen species with a minimum spread of 21 inches at planting. Ground cover can consist of lawn, but for groundcover that consists of plantings, the plantings shall be placed no more than 24 inches on center for 4 inch pots and 30 inches on center for 1 gallon pots. The director shall provide a list of unacceptable tree species;

(ii) In PRDs where parking for multiple family structures is located adjacent to the perimeter landscape area, a solid fence at sufficient height to block headlight glare on adjoining property shall be installed along the perimeter property boundary, or a landscaped earthen berm at least for feet high with side slopes not exceeding a slope of two horizontal feet to one vertical foot (2:1) shall be incorporated into the perimeter landscaping, except as provided for in section (a) above;

(iii) All planting materials required by this subsection shall be included in the PRD landscape plan and shall be installed prior to occupancy of any dwelling unit in the project located within 100 feet of said perimeter landscaping area; or

(iv) The applicant shall be allowed to retain existing vegetation to satisfy the requirements of this section if it provides an equivalent buffer.

(4) Streetscape (ROW and easement) landscaping shall be provided as follows:

(a) All public and private roads within and abutting a PRD shall provide planter strips adjacent to the curb, unless a private road serves four or less lots;

(b) The applicant shall provide landscape treatment along both sides of all roads located within the PRD and along the frontage of the perimeter of the PRD as follows: plant or retain sufficient trees so that an average of one deciduous tree every 30 feet on center with a minimum of two inches DBH at the time of planting and with a canopy that starts at least six feet above finished grade and has or will have when fully mature, a minimum caliper at DBH of eight inches;

(c) The director may allow a lesser DBH than required in SCC 30.42B.125(4)(b) for fully mature trees when it can be demonstrated that an alternative tree species can approximate the same size canopy as an eight inch DBH tree; and

(d) The required spacing for street trees may be adjusted to allow for sight lines, utilities, traffic signs, lighting standards, driveways and other street appurtenances.

(e) The director shall provide a listing of acceptable tree species to be used in the planter strips; and

(5) Installation and maintenance of landscape improvements shall be subject to the following:

(a) All development within an approved PRD shall conform to the approved landscape plan, and associated conditions;

(b) To assure compliance with the provisions of this section, a bond or other guarantee of performance shall be required by the hearing examiner and approved by the director;

(c) The applicant shall provide a maintenance bond for required landscape improvements, in an amount and form satisfactory to the director, prior to occupancy of any unit in the PRD project; and

(d) To ensure permanent, ongoing maintenance of all landscape areas required by this section, landscape maintenance covenants shall be prepared by the applicant and submitted together with documents otherwise required for maintenance of site improvements pursuant to SCC 30.42B.250;

(6) To promote stabilization and continued healthy growth of the landscape areas required by this section, the project qualified landscape designer shall determine the need for irrigation. Upon determining the need for irrigation, an irrigation plan shall be submitted for project application with the required landscape plan;

(7) Off-street parking area landscaping shall be provided per SCC 30.25.022;

(8) Outdoor storage areas consisting of bulk storage, service areas and parking areas for storage of recreation and similar-type vehicles shall be screened from abutting public or private rights-of-way, adjacent structures, and/or abutting property owners by a minimum 10-foot wide, Type A landscaping consisting of evergreen trees and shrubs; and

(9) All landscape plantings shall consist of native species or, if not available or feasible, other species well adapted to the Pacific Northwest. Other species may be used when necessary to meet site-specific, micro-climatic conditions. Drought tolerant species are encouraged. The director shall prepare a list of acceptable species and provide additional guidance for the use of specific species.

(10) The landscape provisions of this section may be modified using the provisions of SCC 30.25.040.

Former SCC 30.42B.130 Design criteria - tree retention.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Individual significant trees, and clusters/stands of significant trees located within any open space area required by this chapter shall be retained in accordance with the provisions of this section. Such areas include all designated native growth protection areas, critical areas and their buffers, and open space, except where active recreation is proposed.

(2) The project proponent shall identify all significant trees on the project site located outside critical areas and their required buffers, and specify such tree location and size (DBH) on a tree survey submitted with the project landscape plan.

(3) The proposed location of required open space areas other than critical areas and their buffers, to the greatest extent practical, shall correspond to the location of existing significant trees. It is not the intent of this section to require retention of all significant trees on a project site, but rather to maximize the retention of existing significant trees within required open space areas.

(4) The project proponent is encouraged to retain significant trees outside of designated open space, but only when such individual trees or clusters can withstand wind throw and have a substantial likelihood of survival.

(5) Single significant trees proposed for retention which are not part of a cluster/stand shall exhibit a full crown appearance.

(6) Damaged, diseased, or standing dead significant trees need not be retained, but may be retained if the applicant demonstrates that such trees will provide important wildlife habitat and do not present a safety hazard.

(7) Understory shall be retained or restored within the drip line of significant trees designated for retention, unless such area is designated as useable open space and the applicant can demonstrate that the area within the drip line is necessary for recreational use or is an area to be landscaped, and in either case, tree preservation will not be negatively affected. Restored understory shall consist of shade-tolerant native trees, shrubs or fern species.

(8) The following restrictions apply to all PRD applications:

(a) No clearing shall be allowed until a significant tree retention plan is approved;

(b) No disturbance of the understory shall occur within the drip line of any significant tree designated for retention except as provided in SCC 30.42B.130(7);

(c) The area corresponding to the drip line of a retained significant tree or the outermost drip lines of a cluster/stand of retained significant trees shall be identified during clearing and construction by clearly visible temporary fencing prior to any site clearing when such areas are required to be preserved. No impervious surfaces, fill, excavation, or storage of construction materials shall be permitted within the temporary fencing area; and

(d) Any significant tree that is required to be retained and is damaged or destroyed as a result of clearing activity in violation of this chapter shall be replaced with minimum 2-1/2 inch caliper native species replacement trees at a ratio of 3:1. Such replacement trees shall be placed within open space areas, except that the director may approve placement on building lots or other areas outside designated open space. The developer shall provide adequate protection from damage during construction, or planting shall occur after construction, in which case a planting plan and bonding/security shall be provided to ensure their planting.

Former SCC 30.42B.135 Design criteria - drainage detention facilities.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003).

(1) All on-site drainage detention structures shall be constructed as surface or underground vault facilities. Such construction shall conform to the provisions of chapter 30.63A SCC, including the Snohomish County drainage manual and the EDDS.

(2) Subject to provisions of chapter 30.63A SCC, PRDs may be incorporated into the service area of established regional drainage facilities. No PRD building permits shall be issued until the regional facility is inspected and in operation.

(3) Underground detention vaults, including oversized pipe facilities, are allowed for satisfying on-site drainage requirements. The site area immediately above a detention vault may be applied toward satisfaction of required total and usable open space per SCC 30.42B.115. Vault facilities may also be located under private roads, and under public road rights-of-way if approved by the director of the department of public works.

(4) The design of detention ponds will focus on both functional requirements and aesthetics. The design will provide a "natural look" with landscaping features that integrate ponds with the surrounding area. Detention pond construction and use shall be subject to the following design parameters and measures in addition to chapter 30.63A SCC regulations:

- (a) Unless fenced and screened, detention pond side slopes shall not exceed 33 percent unless slopes are existing, natural, and covered with vegetation;
- (b) Detention pond design shall include accessible forebay(s) for pond maintenance;
- (c) Where detention facility fencing is not required, a detention pond may be graded and blended with the topography of the site;
- (d) Ponds without fencing are required to have a safety bench or shelf surrounding the permanent pool of the wet pond;
- (e) If the detention facilities are located adjacent to or near a natural, year-round stream, wetland, or buffer, these systems shall be left in natural or near-natural conditions; and
- (f) Detention areas shall be landscaped in a manner consistent with SCC 30.42B.125(2) and which is both aesthetic and able to successfully endure the expected inundation.

Former SCC 30.42B.140 Design criteria - roads, access, circulation, pedestrian facilities, and parking

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) The PRD shall be designed to provide adequate road access, connection and circulation to minimize traffic congestion, provide connection to adjoining neighborhoods, ensure adequate utility services, and provide emergency vehicle access. These design objectives will be accomplished by compliance with the requirements of this section.

(2) The configuration and design of all roads and access facilities within a PRD shall be in accordance with chapter 30.24 SCC, chapter 30.66B SCC, chapter 30.53A SCC, and the EDDS, unless otherwise expressly provided by this section.

(3) Access to all dwelling units within a PRD shall be by public road, except that access may be by private road when approved by the county engineer upon a finding that the following criteria are met:

- (a) The PRD consists of no more than 40 dwelling units;
- (b) Physical limitations of the site or adjacent property preclude the possibility of linkage with a public road either planned or projected in the foreseeable future;
- (c) The proposed design of the private road, pedestrian access, and layout meets the objectives of this chapter, is appropriate to the development proposed, and adequately provides for the public health, safety, and welfare;
- (d) The city engineer of the city in which annexation of the PRD is most likely to occur concurs with the use of a private road within the PRD; and
- (e) The PRD is not otherwise required to provide a public road under county code.

(4) The provisions of SCC 30.42B.140(3) shall not apply to PRDs in the LDMR and MR zones where all dwelling units are retirement housing, retirement apartments, multifamily dwellings or townhouse dwellings with three or more townhouse units per structure, and where the applicant chooses to provide access by use of the access provisions of chapter 30.26 SCC for multifamily dwellings. Use of this provision does not limit the potential requirement for the location of a public or private roadway on the PRD site as may be necessary to satisfy the connectivity requirements of SCC 30.42B.140(5), and the requirements for adequate and safe pedestrian access specified in SCC 30.42B.140(6).

(5) The PRD shall provide a connected network of roads rather than long, irregular loops with dead-ends and cul-de-sacs. Connection shall be provided to all public road, right-of-way, or easement stubs existing at the boundaries of the project and where such stubs are planned or projected in the foreseeable future, in addition to the minimum number of access points necessary to serve the project itself. The county engineer shall determine whether the proposed PRD provides adequate connection based on the following:

- (a) Traffic impacts as a result of the proposed PRD;
- (b) Pending and existing development activity within the affected road system;
- (c) Utility service needs for the proposed PRD;
- (d) Emergency vehicle access for the proposed PRD;
- (e) Any applicable criteria contained in this title, including but not limited to chapters 30.24 and 30.66B SCC and the EDDS; and
- (f) Whether the proposed road connections and access are adequate to carry anticipated traffic within and in the vicinity of the proposed PRD.

(6) The PRD shall be designed to provide adequate and safe pedestrian access to and circulation within the development. The PRD shall make appropriate provision for sidewalks and other planning features that assure safe walking conditions for students who walk to and from school and school bus stops. The county engineer shall review proposed pedestrian access to and circulation within the proposed PRD and make an individualized determination regarding whether the development makes adequate and appropriate provision for pedestrian access and circulation, based on the criteria of this section.

(7) The PRD shall provide for parking as required in chapter 30.26 SCC. In addition, guest parking shall be provided at the rate of one-half space per single family dwelling.

(8) The applicant may propose alternative design elements as modifications to and justifications for deviations from the EDDS, including but not limited to the following:

- (a) Alleys that serve as secondary and vehicular access to dwelling units;
- (b) Back-out bay parking, "eye-brow" cut-de-sacs, parking in the middle of cul-de-sac bulbs (where defined by curbs and landscaping), one-way lanes and loop lanes;
- (c) Modifications to right-of-way width, pavement widths, curbs, centerline radius and other road features;
- (d) Approved deviations pursuant to the Reduced Drainage Discharge Demonstration Program, chapter 30.348 SCC; and

(e) Other appropriate alternatives from recognized references such as the Residential Development Handbook for Snohomish County Communities (MAKERS, 1992), Residential Streets, 2nd Edition (ASCE, 1990) and Model Code Provisions - Urban Streets & Subdivisions (WSCTED, September 1998).

(9) As an alternative to the use of the EDDS, the applicant may propose the use of the engineering standards of the city in which the annexation of the PRD is most likely to occur. The use of applicable city standards shall be considered as a modification to the EDDS and must be approved by the county engineer. When city standards are approved for use, the appropriate city engineer must sign the final plans documenting compliance with city standards.

(10) For purposes of this section, a public road "planned or projected in the foreseeable future" means that construction of the public road is included on the six-year transportation

improvement program, is planned as a result of a proposed development application, or is necessary for local circulation, as documented in a report by the county engineer.

Former SCC 30.42B.145 Design criteria - bulk requirements.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003; Amended Ord. 04-003, March 31, 2004, Eff date May 17, 2004)

(1) Underlying Zone requirements. Unless specifically modified by this chapter, all requirements of the underlying residential zone shall apply within the PRD;

(2) Table 1 establishes the bulk requirements for each housing type permitted in a PRD. The bulk requirements specified for each PRD housing type shall be applied to all PRDs, regardless of whether a concurrent subdivision or short subdivision is approved for the PRD site.

**TABLE 1
PRD BULK STANDARDS**

Development Type	Minimum Site Size	Minimum Lot Width	Minimum Lot Area	Minimum Building Setbacks ^{(1)(2)(4) (6)}	Maximum Lot Coverage ⁽⁵⁾
Single Family Dwellings and Duplexes (Detached Condos)	None	None	None	20' total front/rear yard with 5' minimum one side 5' one side with 10' total side	55%
Single Family Dwellings Zero Lot Line	None	None	None	20' total front/rear yard with 5' minimum one side 0' one side with 10' total side	55%
Townhouse Dwellings	None	None	None	10' front 15' rear 5' one side with 10' total side	55%
Multiple-Family Dwelling	None	60'	None	25' front 25' rear 5' one side w/ 10' total side ⁽³⁾	40%
Retirement Housing	None	60'	20,000 sq ft	25' front 25' rear 15' side ⁽³⁾	40%
Retirement Apartments	None	60'	20,000 sq ft	25' front 25' rear 15' side ⁽³⁾	40%

Footnotes to Table 1

(1) See 30.42B.150 for special setback requirements.

(2) The minimum length of driveway for front yard entry garages or carports between the face of the garage door and the right-of-way or easement, with the exception of alleys, shall be at least 18 feet.

(3) Multiple family, retirement apartments and retirement housing building heights greater than 25 feet shall have a side setback of 20 feet from adjacent properties.

(4) The specified front yard setback shall also be applied as the required setback from a public or private road for any building in a PRD where no individual lots are established by a concurrent subdivision or short subdivision.

(5) The specified maximum lot coverage for PRDs where no subdivision or short subdivision is proposed shall be met for the cumulative building footprint area for all structures in the buildable area of the PRD site. The buildable area of the site shall not include tracts, and public and private roadways.

(6) A building setback shall not be required from an alley or shared driveway. Setbacks for auto courts shall be 0 feet on side for zero lot line development, 8 feet between units, 8 feet for a public R-O-W and 1.5 feet from an auto court easement. Vehicular parking shall not be permitted in an alley.

(3) A minimum building separation of ten feet shall be maintained for single family detached dwellings, duplexes and townhouse structures in the R-7200, R-8400, and R-9600 zones when no subdivision or short subdivision is concurrently approved that would place each structure on an individual lot.

Former SCC 30.42B.200 Approval of PRD official site plan - decision criteria.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) The hearing examiner may approve the PRD official site plan based on findings and conclusions demonstrating that all applicable standards and requirements of this chapter have been met.

(2) If the project is phased, each phase of the proposed development shall independently meet the requirements of this chapter.

(3) Any dedication of property pursuant to this chapter must be based on an individualized determination that the required dedication is reasonably related in nature and extent to the impact of the proposed development.

Former SCC 30.42B.210 Official site plan - effect and recording procedure.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) The site plan as approved by the hearing examiner shall become the official site plan of the PRD and any changes thereto shall require review under the provisions of SCC 30.42B.220.

(2) The official site plan noted on the official zoning maps.

(3) All development within an approved PRD shall conform to the official site plan and associated conditions. In order to assure compliance, a bond or other guarantee of performance may be required by the hearing examiner. Satisfactory performance of all conditions and required improvements must occur prior to recording required by SCC 30.42B.210(5), and occupancy of units in the PRD project.

(4) A final plat, final short plat, or binding site plan/record of survey application filed concurrently with a PRD application shall be approved by the county decision making body and filed for recording with the county auditor prior to the issuance of a building permit for any

structure in a PRD development, except that building permits for model home units may be approved pursuant to the requirements of chapter 30.41A SCC.

(5) All PRD applications must be accompanied by an application which will establish all required open space areas as separate tracts. Any applicant for PRD official site plan approval who does not concurrently apply for subdivision or short subdivision approval pursuant to chapters 30.41A or 30.41B SCC respectively, must apply for binding site plan and record of survey approval pursuant to chapter 30.41D SCC. This requirement applies even if the applicant intends the PRD site to be held under single ownership or to be subject to a declaration of condominium pursuant to chapters 64.32 and/or 64.34 RCW. The following shall apply to all PRDs accompanied by a concurrent application under chapter 30.41D SCC:

(a) An approved PRD official site plan shall constitute a previously approved site plan pursuant to SCC 30.41D.120 for purposes of chapter 30.41D SCC compliance;

(b) Open space tracts shall be depicted on a record of survey and properly recorded pursuant to the applicable provisions of chapter 30.41D SCC;

(c) The record of survey shall depict an accurate location of open space tracts, and shall include necessary dedications, covenants and restrictions, and maintenance provisions as may be prescribed by the director. Projects subject to a declaration of condominium may include the information required pursuant to this section on the record of survey otherwise required pursuant to chapters 64.32 and/or 64.34 RCW; and

(d) The record of survey for PRDs located in the R-7,200, R-8,400, and R-9,600 zones shall also include the location of all proposed structures, access roadways, and parking areas.

(6) A homeowners association used for purposes of tract ownership and maintenance responsibility for tracts established pursuant to this section shall remain in effect until alternative ownership and maintenance responsibility is authorized by the department. The homeowners association shall have by-laws and other documents, including covenants, approved by the county and recorded with the county auditor, guaranteeing maintenance of commonly owned tracts and restricting use of the tracts to that specified in the approved PRD official site plan. Membership in the homeowners association and payment of dues or other assessments for maintenance purposes shall be a requirement of home ownership.

Former SCC 30.42B.220 Revision of the official site plan

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Minor revisions or changes in the official site plan may be permitted by administrative action of the director and shall be properly recorded within the PRD file and as a part of the records for the approved building permits. A "minor" revision means any proposed change in an official site plan that does not involve a substantial alteration of the character of the PRD.

(2) Major revisions of an official site plan shall be processed in the same manner as an original application. A "major" revision means any proposed change in conditions that substantially alter the character of the approved development, including, but not limited to, a decrease in open space or an increase in density.

(3) The determination of whether a proposed change is a "major" or "minor" revision shall be made by the director.

(4) Any minor revisions or changes shall be noted on the official site plan filed with the department. A major revision requires a new PRD official site plan.

SCC 30.42B.250 Maintenance of site improvements.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

Prior to initiation of any site work and/or prior to issuance of any development/construction permits by the county, the applicant shall submit to the department covenants, deeds, and homeowners' association bylaws, and other documents guaranteeing maintenance and common fee ownership, if applicable, of open space, community facilities, private roads and drives, and all other commonly-owned and operated property. These documents shall be submitted in a form acceptable to the director and accompanied by a certificate from an attorney that they comply with the requirements of this chapter prior to approval by the department. Such documents and conveyances shall be accomplished and be recorded, as applicable, with the county auditor as a condition precedent to the filing of any final plat, final short plat, or binding site plan/record of survey of the property or division thereof, except that the conveyance of land to a homeowners' association may be recorded simultaneously with the filing of the final plat, final short plat, or binding site plan/record of survey.

Appendix F: Former Chapter 30.62 SCC Critical Areas Regulations

Former SCC 30.62.010 Purpose and applicability.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

The purpose of this chapter is to designate critical areas by definition and regulate development activities in critical areas to safeguard the public health, safety, and welfare. This chapter applies to all development activity. The objectives of this chapter are as follows:

- (1) To protect unique, fragile, and important elements of the natural environment;
- (2) To implement the Growth Management Act by designating, and adopting regulations for critical areas;
- (3) To inform county residents of the hazards from, and importance of critical areas;
- (4) To increase predictability regarding what can be developed on sites that contain, or are near critical areas;
- (5) To reduce public costs resulting from inappropriate development activities on, or near critical areas;
- (6) To protect the public from natural hazards;
- (7) To minimize the need for emergency rescue services;
- (8) To balance the private rights of individual property owners with the need to protect the public health, safety, and welfare and preserve environmentally sensitive areas;
- (9) To prevent, or reduce the likelihood of damage to property and injury to persons resulting from development activities on or near critical areas;
- (10) To assist property owners in developing their property in a manner which is consistent with its natural constraints; and
- (11) To provide clear procedures for review of applications and to provide the criteria for compliance with both the State Environmental Policy Act (SEPA), chapter 43.21C RCW, and chapter 30.61 SCC.

Former SCC 30.62.030 Relationship to chapter 30.61 SCC.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Critical area protective measures required by this chapter shall also constitute adequate mitigation of adverse or significant adverse environmental impacts on critical areas for purposes of chapter 30.61 SCC.

(2) For purposes of environmental review pursuant to the SEPA, chapter 43.21C RCW, and chapter 30.61 SCC, this chapter shall not apply to development permit applications submitted to the department prior to the effective date of this chapter.

Former SCC 30.62.040 Designation of critical areas.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

The county has designated critical areas by defining their characteristics. There are no maps designating critical areas, except as otherwise indicated in this chapter. The applicant shall determine and the county shall verify, on a case by case basis, in accordance with the definitions in chapter 30.91 SCC, whether a critical area exists and is regulated under this chapter on or in close enough proximity to the subject property that a habitat management plan, setback, or buffer would be required under this chapter.

Former SCC 30.62.055 Additional submittal requirements.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) For any development activity which is subject to this chapter, the applicant shall submit the following in addition to the information required pursuant to SCC 30.70.030, provided that these additional submittal requirements shall not apply for the construction of any single family residence or duplex and ordinary residential improvements for which the proposed area of site disturbance is 100 feet or more from any critical area, and those activities allowed pursuant to SCC 30.62.360:

(a) The following site information drawn to a standard engineering scale and shown on the site development plan for the underlying permit application:

- (i) the boundary lines;
- (ii) the topography at contour interval of five feet unless the underlying permit requires a lesser interval;
- (iii) the location and size of all existing and proposed structures;
- (iv) the location and extent of all proposed development activity;
- (v) the location and description of all critical areas located on the site and on adjacent properties within 100 feet of site boundaries; and
- (vi) the location of all proposed buffers and setbacks;

(b) A critical area study if the proposed development does not comply with SCC 30.62.200(1), 30.62.210(1), 30.62.210(2), 30.62.220, 30.62.230, or 30.62.310 as applicable, or when required by SCC 30.62.110. The content of critical area studies shall be as required in see 30.62.110, 30.62.240 or 30.62.340, as applicable; and

(c) Any additional information known to the applicant pertaining to the critical area(s) on the subject property and adjacent properties.

(2) The county may assist applicants in identifying fish and wildlife habitat conservation areas and the presence of critical species on the subject property.

(3) The county may assist applicants for single family dwelling permits in providing information required in SCC 30.62.055(1).

Former SCC 30.62.060 Time period for review.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

The county shall determine whether a development application complies with this chapter during the county's review under SEPA, chapter 43.21C RCW and chapter 30.61 SCC. The county shall complete review under this chapter prior to issuance of a threshold determination under chapter 30.61 SCC.

Former SCC 30.62.070 Bond or performance security.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

Prior to issuance of any permit or approval which authorizes site disturbance to which this chapter applies, the director shall require performance security in accordance with chapter 30.84 SCC to assure that all work or actions required by this chapter are satisfactorily completed in accordance with the approved plans, specifications, permit or approval requirements, and applicable regulations, and to assure that all work or actions not satisfactorily completed will be corrected to comply with approved plans, specifications, requirements, and regulations, to eliminate hazardous conditions, to restore environmental damage or degradation, and to protect fish and wildlife habitat and the health, safety and general welfare of the public.

Former SCC 30.62.075 Permanent protection for critical areas and buffers.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) For development activities consistent with previously approved site plans:

(a) Where critical areas have been identified and where specific and adequate permanent protection has been provided, no additional restrictions or protection will be required. Adequate permanent protection shall include, but not necessarily be limited to, measures for permanent preservation of the critical areas, buffers, and setbacks.

(b) Where critical areas or portions of critical areas have not been accurately designated and/or mapped, and where adequate permanent protection has been provided for the accurately designated and/or mapped critical areas, the existing permanent protection measures shall also apply to the newly designated critical areas.

(c) Where critical areas have been accurately designated and/or mapped, and adequate permanent protection has not been provided, all provisions of this chapter shall apply.

(2) Critical areas and their required buffers for which permanent protection is required pursuant to SCC 30.62.200(3), 30.62.210(3) and 30.62.320 shall be designated native growth protection areas (NGPAs).

(3) Except as provided for in SCC 30.62.075(4) and (5), for development activities where land division is proposed or required, NGPAs shall be located in:

(a) Separate tracts owned in common by:

(i) all owners of the lots or parcels within a planned residential development subdivision, short subdivision, or other land division; or

(ii) another appropriate entity approved by the county; or

(b) A form of easement approved by the county.

(4) In subdivisions or short subdivisions where all lots are five acres or larger in size, NGPAs need not be contained in separate tracts.

(5) When an NGPA is entirely contained within a single proposed lot of 100,000 square feet or larger in size and where the NGPA comprises less than 20 percent of that lot, the NGPA need not be contained in a separate tract.

(6) For all development activities, except for the construction of any single family residence or duplex and ordinary residential improvements for which the proposed area of site disturbance is 100 feet or greater from any critical area and those activities allowed pursuant to SCC 30.62.360, NGPAs shall be delineated on binding site development plans which shall be recorded with the county auditor.

(7) Prior to any development activity on the site, except for the construction of any single family residence or duplex and ordinary residential improvements for which the proposed area of site disturbance is 100 feet or greater from any critical areas and those activities allowed pursuant to SCC 30.62.360, the applicant shall mark with temporary markers in the field the boundary of all NGPAs required by this chapter, or the limits of the proposed site disturbance outside of the NGPAs, using methods and materials acceptable to the county.

(8) For development activities other than single family residential development on existing legal lots and those activities allowed pursuant to SCC 30.62.360, NGPA boundaries shall be permanently marked on the site prior to final inspection by the county using methods and materials acceptable to the county.

Former SCC 30.62.100 Protection for fish and wildlife habitat conservation areas.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) All stream, wetland, and riparian habitat is protected pursuant to SCC 30.62.300 through SCC 30.62.375 of this chapter. In addition, when these habitat areas contain critical species listed as endangered or threatened by the state or federal governments, they shall also be protected pursuant to SCC 30.62.110.

(2) All fish and wildlife habitat conservation areas not otherwise protected pursuant to SCC 30.62.100(1) shall be protected pursuant to the requirements of SCC 30.62.110.

Former SCC 30.62.200 Erosion hazard areas.

(Added Amended Ord. 02-064, December 9, 2002, Eff date Feb. 1, 2003; Emergency Ord. 04-024, March 10, 2004, Eff date March 10, 2004)

(1) Development activity proposed in erosion hazard areas as defined in chapter 30.91 SCC shall be protected by use of best management practices found in the Snohomish County Drainage Manual adopted pursuant to chapter 30.63A SCC.

(2) The director may approve erosion control measures which differ from those required by SCC 30.62.200(1) if the applicant submits a geotechnical report which technically demonstrates

and visually illustrates that the alternative measures provide protection which is greater than or equal to that provided by the measures required in SCC 30.62.200(1).

(3) All portions of erosion hazard areas on the site which are undisturbed by development activities shall be designated as native growth protection areas in accordance with SCC 30.62.320.

Former SCC 30.62.210 Landslide hazard areas

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Development activities on landslide hazard areas shall be protected by use of generally accepted proper engineering and construction practices. Unless waived by the director, or the presentation of documentation by the director to support further geotechnical engineering analysis, a geotechnical report, or structural engineering, shall be required to determine proper protective measures.

(2) Structures on, or adjacent to, landslide hazard areas shall be protected by use of generally accepted proper engineering and construction practices, and shall meet the following requirements:

(a) Ascending slopes (see Figure 30.62.210(2)(a)).

(i) for slopes 33 percent to 100 percent, the setback from the toe of the slope shall be the height of the slope divided by 2.

(ii) for slopes greater than 100 percent, the setback from the toe of the slope shall be the height of the slope divided by 2. The toe of the slope shall be assumed to be at the intersection of a horizontal plane drawn at the bottom of the foundation and a plane drawn tangent to the slope at an angle of 45 (100 percent) to the horizontal.

(b) Descending slopes (see Figure 30.62.210(2)(b)).

(i) for slopes 33 percent to 100 percent, the setback from the top of the slope shall be the height of the slope divided by 3.

(ii) for slopes greater than 100 percent, the required setback from the top of the slope shall be the height of the slope divided by 3. The setback shall be measured from an imaginary plane 45 degrees (100 percent) to the horizontal projected upward from the toe of the slope.

(c) The director may approve setbacks which differ from those required by SCC 30.62.210(2) if the applicant submits a geotechnical report which technically demonstrates and visually illustrates that the alternative setbacks provide protection which is greater than or equal to that provided by the setbacks required in SCC 30.62.210(2).

LANDSLIDE HAZARD AREA - SETBACK REQUIREMENTS

Figure 30.62.210(2)

Figure 30.62.210(2)(a) Building adjacent ascending slope greater than one to one

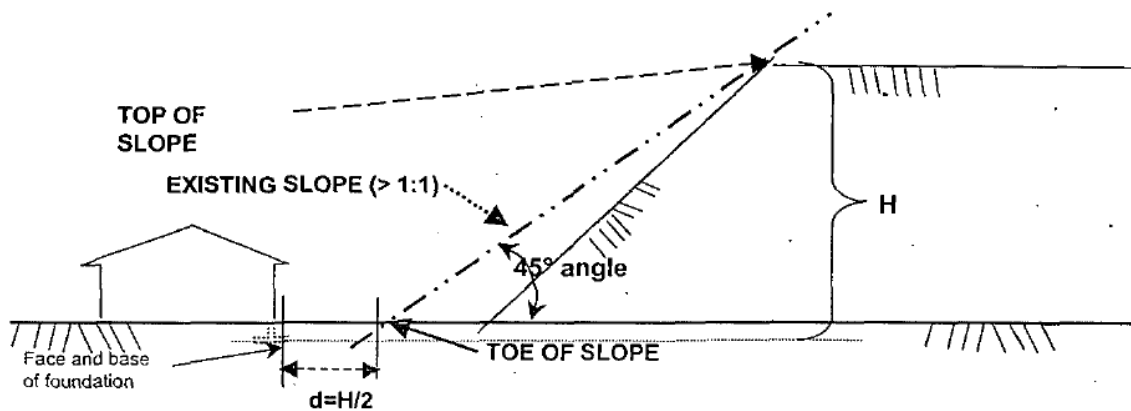
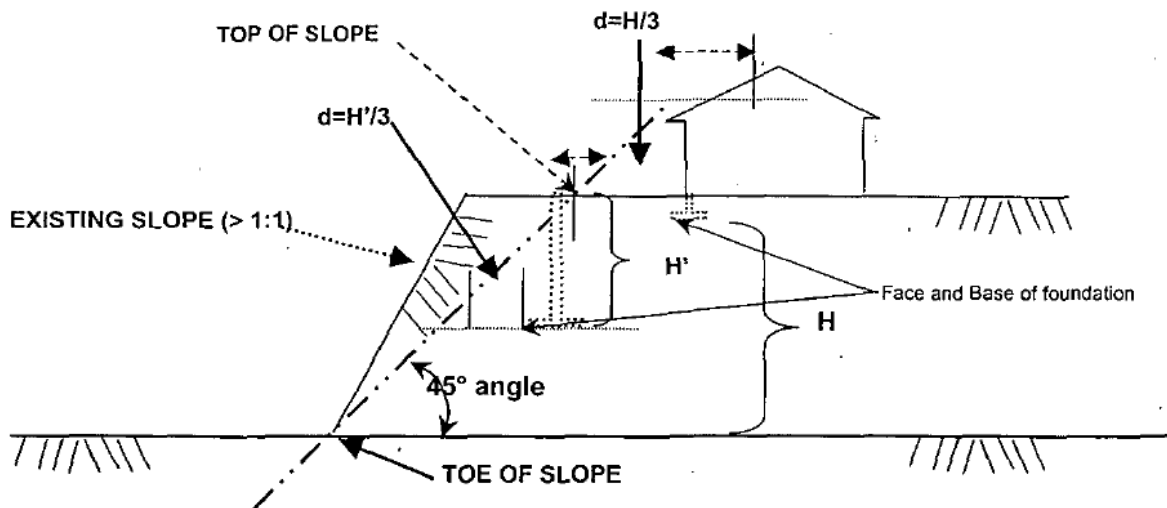


Figure 30.62.210(2)(b) Building adjacent descending slope greater than one to one



d = distance between the point where a horizontal line intercepts the slope and the point where the face of the footing meets the bearing plane. **d** need not exceed 15' from the toe of an ascending slope $< 45^\circ$ or 40' from a descending slope $< 45^\circ$ [$45^\circ = 1:1$ slope].

H = Vertical elevation between a line running horizontally from toe or top of first significant and regular slope, and a line drawn horizontal to the foundation, measured from the face of the footing at the bearing plane.

TOE OF SLOPE = means the lowest point of the first significant and regular break in a slope (SCC 32.10.310(43) [sic])

TOP OF SLOPE = means the top highest point of the first significant and regular break in a slope (SCC 32.10.110(44) [sic])

Slope means an inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance [SCC 17.05.310(28); also see 1997 UBC Appendix chapter 33, section 3308 - Excavation and Grading, and section 1806 -- Footings

Former (2007) SCC 30.62B.340 Landslide hazard areas.

(Added by Amended Ordinance No. 06-061 on August 1, 2007)

(1) Development activities, actions requiring project permits and clearing shall not be allowed in landslide hazard areas or their required setbacks unless there is no alternate location on the subject property.

(2) Structures shall be setback from landslide hazard areas unless the department approves a deviation as provided below.

(a) Setbacks shall be established as follows:

(i) the minimum top of slope setback shall be equal to the height of the slope divided by three, or 50 feet, whichever is greater;

(ii) the minimum toe of slope setback shall be 50 feet or the height divided by two whichever is greater; and

(iii) slope setbacks shall be no less than the minimum necessary to ensure that structural shoreline stabilization measures will not be necessary to protect the development.

(b) Deviations from setbacks may be allowed when the applicant demonstrates that the following conditions are met:

(i) there is no alternate location for the structure on the subject property; and

(ii) a geotechnical report demonstrates that:

(A) the alternative setbacks provide protection which is equal to that provided by the standard minimum setbacks; and

(B) the proposal meets the requirements of SCC 30.62B.320.

(3) In addition to the requirements in SCC 30.62B.320 the following standards and requirements apply to development activities, actions requiring project permits and clearing in landslide hazard areas:

(a) Vegetation shall not be removed from a landslide hazard area, except for hazardous trees based on review by a qualified arborist or as otherwise provided for in a vegetation management and restoration plan;

(b) The factor of safety for landslide occurrences shall not be decreased below the limits of 1.5 for static conditions or 1.1 for dynamic conditions. Analysis of dynamic conditions shall be based on horizontal acceleration as established by the current version of the International Building Code;

(c) Tiered piles or piers shall be used for structural foundations where possible to conform to existing topography;

(d) Retaining walls that allow for the maintenance of existing natural slope area shall be used wherever possible instead of graded artificial slopes;

(e) Provided there is no practical alternative, utility lines and pipes may be constructed in landslide hazard areas under the following conditions:

- (i) the line or pipe shall be located above ground and properly anchored or designed so that it will continue to function in the event of an underlying slide; and
 - (ii) stormwater conveyance systems shall be designed with high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equivalent; or
 - (iii) alternatively, utilities may be bored below landslide hazard areas provided they are located beneath the depth of potential slope failure.
- (f) Point source discharge of stormwater may be allowed in landslide hazard areas under the following conditions:
- (i) the stormwater is conveyed via continuous storm pipe downslope to a point where it does not increase risk to landslide hazard areas or other properties downstream from the discharge;
 - (ii) the stormwater is discharged at flow durations matching predeveloped conditions with adequate energy dissipation into existing channels; or
 - (iii) discharge upslope of the landslide hazard area may only occur if:
 - (A) it is dispersed onto a low-gradient undisturbed setback adequate to infiltrate all surface and stormwater runoff; and
 - (B) the discharge will not decrease the stability of the slope.

Former SCC 30.62.240 Geotechnical report content requirements.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

Geotechnical reports shall be prepared by a geotechnical engineer or geologist, as appropriate. Geotechnical reports shall be stamped and signed by an engineer. Based on the site characteristics and the information submitted by the applicant, the director may require all or a portion of the following to be included in a geotechnical report for the subject property:

- (1) A site development plan drawn to scale which shows the boundary lines and dimensions of the subject property, the location, size, and type of any existing or proposed structures, impervious surfaces, wells, drainfields, drainfield reserve areas, roads, easements, and utilities on site;
- (2) The location of springs, seeps, or other surface expressions of ground water, and the location of surface water or evidence of seasonal surface water runoff or ground water;
- (3) A discussion of the geological and engineering properties of the soils, sediments, and/or rocks on the subject property and adjacent properties and their effect on the stability of the slope;
- (4) The extent and type of vegetative cover prior to development activity or site disturbance;
- (5) The proposed method of drainage and locations of all existing and proposed surface and subsurface drainage facilities and patterns, and the locations and methods for erosion control;
- (6) A description of the soils in accordance with the Unified Soil Classification System;
- (7) An identification of all existing fill areas;
- (8) Information demonstrating compliance with all applicable codes and ordinances for the underlying permit;

(9) A vegetation management and restoration plan or other means for maintaining long-term stability of slopes; and

(10) Evidence showing faults, significant geologic contacts, landslides, or downslope soil movement on the subject property and adjacent properties.

Former SCC 30.62.365 Review criteria for development activities impacting critical areas and buffers.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) The county shall evaluate each proposed development activity in a stream, wetland, or buffer regulated under this chapter in accordance with the following hierarchy of goals: avoid impacts, minimize impacts, repair or restore impacts, reduce impacts over time or mitigate impacts through replacement, restoration, or enhancement of function.

(2) To utilize the provisions set forth in SCC 30.62.350, 30.62.370, 30.62.375, or 30.62.400, applicants must submit a critical area study unless a study is not required under other provisions of this chapter. The county will review the critical area study and proposed development activity mitigation plan in accordance with the following criteria:

(a) The mitigated development activity will not:

- (i) adversely affect water quality;
- (ii) destroy, damage, or disrupt a fish and wildlife habitat conservation area;
- (iii) adversely affect drainage or storm water detention capabilities; or
- (iv) lead to unstable earth conditions or erosion;

(b) The impacts are the minimum necessary to accommodate the development activity and are fully mitigated in accordance with SCC 30.62.345;

(c) Any disruption to a critical area will occur in the least sensitive area; and

(d) Critical areas or buffers temporarily disrupted during construction and not subject to permanent development activity as authorized under SCC 30.62.350 will be restored.

Former SCC 30.62.370 Innovative development design.

(Added Amended Ord. 02-064, December 9, 2002, Eff date Feb. 1, 2003; Emergency Ord. 04-024, March 10, 2004, Eff date March 10, 2004)

In conjunction with an application for a development permit, an applicant may request approval of an innovative design which addresses wetland and stream protection and preservation in a creative manner that deviates from the standards set forth in SCC 30.62.310, 30.62.345, and 30.62.350.

(1) General. An applicant who requests that a development permit application be considered under the performance and design criteria of this section shall submit the following information:

(a) A critical areas study prepared and submitted in accordance with the requirements of SCC 30.62.340; and

(b) A conceptual site development plan drawn to scale which technically and visually illustrates the development potential achievable for the project site, and demonstrates that the innovative design proposal will achieve a net improvement in the functions and values of the streams and wetlands and their buffers over that existing on the subject property and that which is achievable using the provisions of SCC 30.62.310, 30.62.320, 30.62.345, and 30.62.350.

(2) Criteria for Approval. An innovative development design approval pursuant to this section shall be granted in conjunction with the decision on the underlying permit(s), if the following criteria are met:

(a) The innovative design will result in a net improvement of the functions and values of the stream or wetlands and their buffers; and

(b) The innovative design is consistent with the purpose and objectives of this chapter;

(c) The innovative design will not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity and zone in which the subject property is located.

(3) A decision to grant or deny an innovative design may be appealed as a Type 1 decision.

Appendix G: Specific Code Sections Cited in Chapter 30.63A Drainage

Former SCC 30.63A.010 Purpose and applicability.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

The purpose of this chapter is to regulate and control drainage and storm water to safeguard the public health, safety, and general welfare. This chapter applies to all development activity. The objectives of this chapter are as follows:

- (1) To promote sound, practical, and economical development practices and construction procedures which prevent or minimize impacts to the county's waters;
- (2) To prevent or minimize degradation of water quality and to control the sedimentation of streams, rivers, lakes, wetlands, and other surface water;
- (3) To control storm water runoff originating on developing land;
- (4) To preserve the suitability of water for recreation and fishing;
- (5) To maintain aquatic habitat;
- (6) To maintain the quality of the county's water resources;
- (7) To prevent or minimize adverse effects caused by alterations in surface water or ground water quality, quantities, locations, and flow patterns;
- (8) To maintain the safety of county roads and rights-of-way;
- (9) To protect public safety by reducing slope instability and landslides;
- (10) To preserve and protect the county's wetlands by maintaining hydrologic continuity with other aquatic resources; and
- (11) To encourage development to locate within urban growth areas, and prevent or minimize drainage impacts therefrom.

Former SCC 30.63A.020 Exemptions.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) The following commercial agricultural activities conducted outside critical areas and on land designated riverway commercial farmland, upland commercial farmland, or local commercial farmland by the comprehensive plan are exempt from all requirements of this chapter:

- (a) Tilling, soil preparation, and maintenance; and
- (b) Fallow rotation, planting, harvesting.

(2) The following commercial agricultural activities conducted outside critical areas and on land designated riverway commercial farmland, upland commercial farmland, or local commercial farmland by the comprehensive plan shall comply with the minimum erosion control requirements of sec 30.63A.220(1)(a)-(g), and are exempt from all other requirements of this title:

- (a) Maintenance and repair on private property of existing commercial agricultural facilities, which may include drainage facilities, ponds, animal stock flood sanctuaries, animal waste management facilities, agricultural buildings, fences, roads, and bridges; and

(b) New construction (including enlargement) of drainage ditches including 500 cubic yards or less of grading, which does "not adversely impact critical areas, lakes, or upstream or downstream properties, when such ditches do not have a surface connection within 100 feet of a critical area or lake, or which contain water on-site for retention, infiltration or evaporation.

(3) Utility construction and maintenance.

(a) Minor utility activities in county rights-of-way which, pursuant to Title 13 SCC, do not require a Type D permit are exempt from the requirements of this chapter;

(b) Utility construction outside critical areas and within county rights-of-way conducted under a Type D7 blanket utility permit pursuant to Title 13 SCC which does not adversely impact critical areas, lakes, or upstream or downstream properties shall comply with the erosion control requirements of SCC 30.63A.220(1), and is exempt from all other requirements of this chapter. Utilities applying for a blanket utility construction permit shall propose erosion and sedimentation control best management practices for all permitted activities at the time of application.

(c) Major utility construction within impervious surface areas, including trenching or other utility installation or maintenance which cuts and subsequently repairs existing impervious surface outside critical areas and within public rights-of-way conducted under a Type D8 major utility construction permit pursuant to Title 13 SCC, which does not adversely impact critical areas, lakes, or upstream or downstream properties, shall comply with the erosion control requirements of SCC 30.63A.220(1), and is exempt from all other requirements of this chapter. Utilities applying for a major utility construction permit shall propose erosion and sedimentation control best management practices for the utility construction at the time of application.

(d) Utility construction within impervious surface areas, including trenching or other utility installation or maintenance which cuts and subsequently repairs existing impervious surface outside critical areas and outside of public rights-of-way, which does not adversely impact critical areas, lakes, or upstream or downstream properties, shall comply with the erosion control requirements of SCC 30.63A.220(1), and is exempt from all other requirements of this chapter. Utilities proposing installation or maintenance which is subject to a county permit, approval or authorization shall propose erosion and sedimentation control best management practices for the utility construction at the time of application.

(e) Utility maintenance outside critical areas and outside of public rights-of-way which does not add impervious surface and does not adversely impact critical areas, lakes, or upstream or downstream properties shall comply with the erosion control requirements of SCC 30.63A.220(1), and is exempt from all other requirements of this chapter.

(f) All utility construction not exempt pursuant to subsections (a)-(e) above shall comply with all applicable requirements of this chapter.

(4) Maintenance of existing drainage facilities which does not adversely impact critical areas or lakes is exempt from all requirements of this chapter.

(5) Interior remodeling or tenant improvements which create less than 200 square feet of additional impervious surface are not considered redevelopment, and are exempt from all requirements of this chapter.

(6) Development activities outside critical areas which create less than 200 square feet of impervious surface shall comply with the erosion and sedimentation control requirements of SCC 30.63A.220(1) and are exempt from all other requirements of this chapter.

(7) County department of public works construction projects shall be exempt from all fee requirements of SCC 30.86.310, all requirements of maintenance of drainage facilities except SCC 30.63A.300, and all requirements of security and insurance SCC 30.63A.400.

Former SCC 30.63A.060 Relationship to chapter 30.61 SCC.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

When the director, upon consideration of the specific probable adverse environmental impacts of a development activity with regard to on-site and off-site changes to storm water volume, release rate, erosion, sedimentation, and water quality, determines that the requirements of this chapter and chapters 30.43C, 30.43D, 30.44, 30.62, 30.63B, 30.64, and 30.65 SCC adequately address those impacts, compliance with those requirements shall constitute adequate analysis of and mitigation for the specific adverse or significant adverse environmental impacts of the development activity with regard to on-site and off-site changes to storm water volume, release rate, erosion, sedimentation, and water quality, as provided by RCW 43.21C.240.

Present-day SCC 30.63A.110 Snohomish County Drainage Manual

(Added Amended Ord. 10-026, June 9, 2010, Eff date Sept. 30, 2010)

The director of the department of public works is authorized to adopt by rule, pursuant to chapter 30.82 SCC, the Snohomish County Drainage Manual, to be known as the "Drainage Manual." The Drainage Manual shall provide detail and specificity regarding the requirements of chapters 30.63A, 30.63B and 30.63C SCC. The Drainage Manual shall be used in place of the 2005 Department of Ecology Stormwater Management Manual for Western Washington. When best management practices (BMPs) are required by this chapter, they shall comply with the Drainage Manual.

Former SCC 30.63A.120 Drainage review for major development activities.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) For all proposed major development activity:

(a) If the proposed development activity is subject to a pre-approval public hearing where the hearing examiner has original jurisdiction, a targeted drainage plan in accordance with SCC 30.63A.150 shall be submitted for approval by the department with the underlying permit application. An applicant may voluntarily submit a full drainage plan in accordance with SCC 30.63A.155 for this purpose.

(b) A full drainage plan in accordance with SCC 30.63A.155 shall be submitted for all major development activities, unless waived pursuant to this subsection. If a targeted drainage plan is not required pursuant to SCC 30.63A.120(1), a full drainage plan shall be submitted with the underlying permit application. If both a targeted and full drainage plan are required under this section, the full drainage plan shall be submitted at the time specified in SCC 30.63A.150(2).

The department may waive the requirement for a full drainage plan after a targeted drainage plan has been submitted and reviewed as provided for by SCC 30.63A.120(1), upon making written findings that the proposed development activity will not:

- (i) adversely affect existing water quality conditions of any surface or ground water;
- (ii) alter the existing surface or subsurface drainage patterns or flow rates on site or off site;
- (iii) increase peak discharge or storm water runoff volume sufficiently to cause adverse impacts downstream; or
- (iv) cause erosion, sedimentation or flooding on upstream or downstream properties.

(c) Any drainage plan and subsequent major development activity shall comply with the drainage system requirements of SCC 30.63A.200 and SCC 30.63A.210, all erosion control provisions of SCC 30.63A.220, all redevelopment requirements of SCC 30.63A.230, the wetland detention restrictions of SCC 30.63A.240, and all applicable requirements for maintenance of drainage facilities in SCC 30.63A.300, and security and insurance in SCC 30.63A.400.

(2) For purposes of this chapter, major development activity means any development activity or redevelopment that creates 5,000 square feet or more of impervious surface, or which collects and concentrates drainage from 5,000 square feet or more.

Former SCC 30.63A.140 Drainage review process.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Drainage review pursuant to this chapter shall be conducted in conjunction with, and shall be a condition of, approval of the underlying permit for the proposed development activity. Construction may not commence until issuance of approval of any required permit or plan, or completion of any review conducted under the authority of this chapter.

(2) Whenever a development activity requires submittal of a drainage plan under this chapter, the drainage plan shall be submitted at the time of application for the underlying permit for a proposed project, except as provided in this subsection. An application for a development activity which requires a drainage plan to be submitted at the time of application for the underlying permit shall not be deemed complete until the drainage plan is complete. The department shall use the provisions of SCC 30.63A.150 and SCC 30.63A.155 to determine if the drainage plan is complete. When both a targeted and full drainage plan are required for a major development activity pursuant to SCC 30.63A.120, the full drainage plan shall be submitted at the time construction plans are submitted. Pursuant to SCC 30.63A.120(2), the department may waive the requirement for a full drainage plan after a targeted drainage plan has been submitted and reviewed.

(3) Upon finding any deficiencies in the drainage plan submittal, the department shall notify the applicant of the deficiencies and return the drainage plan to the applicant for revision and resubmittal.

(4) Once a drainage plan has been determined complete, the department shall review the plan for compliance with the requirements of Snohomish County code. This review may include a site review.

(5) If a drainage plan is resubmitted after two reviews by the department, or the drainage plan has been revised, it shall be subject to the resubmittal and revision fee requirements of SCC 30.86.510(2).

(6) The department shall notify the applicant upon approval of the plan.

(7) The applicant shall pay the review and inspection fees as required by SCC 30.86.510(2) before obtaining the approval.

(8) The department shall inspect and approve drainage facilities before the applicant may obtain a construction acceptance or a certificate of occupancy.

Former SCC 30.63A.150 Targeted drainage plan submittal requirements.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) The purpose of the targeted drainage plan submittal requirements is to require a conceptual layout of the proposed drainage system which indicates the nature and extent of the work proposed, and which explains how the drainage system will function with sufficient information to allow the county to determine compliance with the applicable requirements of this chapter and other applicable laws. Targeted drainage plan submittals may also include additional or detailed engineering and design information for a portion of the drainage system.

(2) The director shall establish and may revise submittal requirements for targeted drainage plans pursuant to SCC 30.70.030.

Former SCC 30.63A.155 Full drainage plan submittal requirements.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) The purpose of the full drainage plan submittal requirements is to require an accurate set of plans and calculations that become part of the construction documents prepared for the development activity, and which clearly indicate the nature and extent of the work proposed with sufficient information to allow the county to determine compliance with the applicable requirements of this chapter and other applicable laws.

(2) The director shall establish and may revise submittal requirements for full drainage plans pursuant to SCC 30.70.030.

Former SCC 30.63A.160 Revisions to drainage plans.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) The applicant shall revise drainage plans to respond to the department's mark ups or comments during the drainage plan review process to assure compliance with this chapter. The department may request additional information as necessary to determine compliance with this chapter.

(2) The applicant may revise an approved drainage plan upon paying a subsequent review fee pursuant to SCC 30.86.310(2) and obtaining written approval from the department prior to

construction for any proposed revision to an approved drainage plan. The department may require additional information before approving or denying the proposed revision. Any revision shall comply with the requirements of this chapter and be shown on the final record drawings.

Former SCC 30.63A.170 Drainage inspection process.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Inspection to determine if construction is complete. When the applicant completes or substantially completes construction of the drainage facilities in accordance with the approved construction plan or drainage plan, the applicant may request an inspection by the department to determine whether the construction is complete. The department shall either determine that construction is complete or identify construction items which are incomplete. Pursuant to SCC 30.63A.410(2), after inspection and upon request of the applicant, the department may accept a performance security to guarantee the completion of the required drainage facilities after recordation of a final subdivision or short subdivision or issuance of a certificate of occupancy.

(2) Special inspection. When the department determines that special inspection is required for water quality monitoring on major development activity projects, the applicant or owner shall engage consultants to provide professional inspections and prepare and submit periodic inspection reports to the county on a timely basis, and the county shall respond within 7 working days as to the acceptability of the report. The applicant or owner shall act as a coordinator between the consultant, the contractor and the county inspector. In the event of changed soil or groundwater conditions between the time of submitting a drainage plan and construction acceptance, the applicant or owner shall be responsible for informing the county inspector of such change and shall provide revised plans as necessary to mitigate potential water quality or drainage impacts. The revised plans shall require review and approval by the department.

(3) Transfer of responsibility. During the installation of drainage facilities, if the civil engineer, the soils engineer, or the engineering geologist of record is replaced, the work shall be stopped until a replacement agrees in writing to accept responsibility for inspecting and approving the work within his or her area of technical competence. It shall be the duty of the applicant or owner to notify the department in writing of such change prior to the recommencement of such work.

Former SCC 30.63A.200 Drainage system requirements for all development activities with drainage plans.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

The review standards and drainage system requirements of this section shall apply to all drainage plans and subsequent development activities.

(1) Storm water entry and exit. If drainage patterns currently exist on the site, drainage facilities shall be designed so that storm water enters and exits the site at the existing location(s) of entry and exit.

(2) Mitigation.

(a) Mitigation shall be provided *for* all significant drainage impacts upstream or downstream caused only by the development activity, including any significant drainage impacts identified in a downstream analysis performed in accordance with paragraph (b) of this subsection, to the extent the impacts are caused by the development activity. Avoiding, minimizing, rectifying, or lastly compensating for impacts shall be given preference in that order.

(b) Downstream and upstream analysis. The applicant shall perform a downstream analysis for at least a quarter mile downstream of the subject property which evaluates potential downstream drainage impacts as well as the adequacy of the downstream drainage facilities to accommodate flows from the development activity and all other upstream sources. The downstream analysis shall include proposed mitigation pursuant to paragraph (a) of this subsection for all significant drainage impacts from the development activity identified in the downstream analysis. The applicant shall include in the downstream analysis a computation of the adequacy of downstream conveyance systems in accordance with SCC 30.63A.210(2)(c), and whenever possible, shall include a visual or photographic inspection of the condition of the downstream drainage system to verify that it will function in accordance with the analysis. If flooding areas, locations of existing severe cumulative drainage impacts, critical areas, lakes, or fisheries resources which may be adversely impacted, or other features where significant drainage impacts may occur as a result of the proposed development activity, are located more than a quarter of a mile downstream of the subject property, the downstream analysis shall also evaluate the potential impacts by the development activity to these areas. If the director determines that a downstream analysis fails to include an evaluation of all such areas located more than a quarter mile downstream of the subject property, the downstream analysis shall be returned to the applicant for revision. The applicant shall perform an upstream analysis of the area upstream from the site which drains onto or through the site, which evaluates potential upstream drainage impacts, and calculates the area of land and drainage flow to the site in accordance with SCC 30.63A.210(2)(c). The upstream analysis shall include proposed mitigation pursuant to paragraph (a) of this subsection for all significant drainage impacts from the development activity identified in the upstream analysis.

(3) Conveyance systems.

(a) Conveyance systems shall accommodate the peak discharge from the 25-year, 24-hour design storm based on post-development site conditions including storm water flowing through the site which originates on-site and off-site.

(b) Conveyance systems within public road rights-of-way shall be constructed of vegetation-lined channels, instead of pipe systems unless:

- (i) the channel gradient exceeds five percent (5%),
- (ii) construction of the channel will require deviation from the EDDS, or
- (iii) the director determines that an open channel presents an unacceptable public health or safety risk.

(c) Conveyance systems shall not place streams in culverts unless determined by the director to be necessary for property access and traffic circulation. Bridges or bottomless arch culverts shall be installed instead of culverts at stream crossings, unless an alternative which has been approved by the Washington Department of Fish and Wildlife is approved by the director.

(4) Setbacks from drainage facilities.

(a) Open drainage facilities. A setback of at least fifteen (15) feet, measured horizontally, shall be provided between the plan view projection of any structure, on-site or off-site, and the top of the bank of a constructed open channel or open retention or detention pond.

(b) Closed drainage facilities. A setback of at least ten (10) feet, measured horizontally, shall be provided between the plan view projection of any structure, on-site or off-site and the nearest edge of a closed drainage facility, unless the public works director determines that adequate accessibility can be provided otherwise.

(5) Easements. Drainage facilities shall include easements as provided in SCC 30.63A.330 and SCC 30.63A.340, if required thereby.

(6) Maintenance. Drainage facilities shall be maintained as required by SCC 30.63A.300.

(7) Storm water retention, detention and water quality treatment facilities may not be constructed within critical areas or critical area buffers except as authorized under the provisions of SCC 30.63.240

(8) Compliance with the EDDS. All drainage facilities constructed in the county road right-of-way or in easements granted to the County in accordance with chapter 30.63A SCC, shall be constructed in accordance with the EDDS.

Former SCC 30.63A.210 Drainage system requirements for major development activities.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

In addition to the requirements of SCC 30.63.200, the review standards and drainage system requirements of this section shall apply to all major development activities and the review of drainage plans submitted therefore.

(1) Quantity Controls.

(a) The following storm water runoff quantity controls shall be achieved, except as provided in subsection (1)(b):

(i) major development activities shall infiltrate the storm water runoff from the 2-year, 24-hour design storm without impairing ground water quality. If site conditions prevent infiltration, storm water runoff for the 2-year, 24-hour storm shall be detained and released at a rate no greater than fifty percent (50%) of the peak discharge for existing site conditions.

(ii) storm water runoff from the 10-year, 24-hour design storm shall be detained and released at a rate no greater than the peak discharge for existing site conditions.

(iii) storm water runoff from the 10-year, 24-hour design storm shall be detained and released at a rate no greater than the peak discharge for existing site conditions.

(b) The storm water runoff quantity controls of subsection (1)(a) shall not apply if the storm water runoff generated on-site is treated for water quality using appropriate best management practices in accordance with subsection (4), and:

(i) the proposed increase from existing conditions in peak discharge for a 100-year, 24-hour design storm is less than 0.1 cubic feet per second, and downstream analysis demonstrates that there will be no adverse impacts to existing drainage facilities or to critical areas or lakes downstream of the subject property;

(ii) the storm water runoff is discharged to an appropriately sized public regional storm water management facility and the following conditions are met: the facility is in operation

by the time construction begins; the conveyance system between the proposed project and the public regional facility meets the requirements of subsection (2); and the public regional facility meets the storm water runoff quantity control standards of subsection 1(a); or

(iii) the storm water runoff is discharged directly into Puget Sound, the Snohomish River mainstream including sloughs, the Skykomish River downstream of the confluence with the Beckler River, the Snoqualmie River in Snohomish County, the Stillaguamish River mainstream, the North Fork of the Stillaguamish River downstream of the confluence with Boulder River, or the South Fork of the Stillaguamish River downstream of the confluence with Canyon Creek; and all of the following conditions are met:

(A) the project site discharge point is less than one quarter mile from the receiving water body;

(B) the conveyance system between the project site and the receiving water body does not contain a stream or wetland;

(C) the conveyance system between the project site and the receiving water body can convey the peak discharge from the 25-year, 24-hour design storm without erosion to the conveyance system; and

(D) the applicant can demonstrate that there will be no adverse drainage impacts resulting from direct discharge into the receiving water body.

(c) Retention or detention facility computations.

(i) to size retention or detention facilities, the minimum computation standard shall be the Soil Conservation Service (SCS) method with level pool routing, the Santa Barbara Unit Hydrograph (SBUH) method, or other equivalent method approved by the director. A factor of safety of 1.3 times the calculated retention or detention capacity shall be used for the SCS, SBUH or equivalent method. When a Hydrological Simulation Program Fortran (HSPF) model or equivalent method approved by the director is used, no factor of safety is necessary.

(ii) to size retention or detention facilities in drainage basins where there is a closed depression or where downstream flooding below the 100-year, 24-hour event threshold has occurred within a quarter mile of the proposed development activity, the minimum computation standard shall be a HSPF model or an equivalent method approved by the director. If the SCS, SBUH models, or their equivalent are used, the correction factors in Table A shall be used in place of the 1.3 factor of safety in subsection (1)(c)(i).

Table 30.63A.210(1)

VOLUME CORRECTION FACTORS FOR USING THE SCS OR SBUH MODELS IN CLOSED DEPRESSIONS OR WITHIN 1/4 MILE OF DOWNSTREAM FLOODING

Land Use Conversion	Correction Factor
Forest to Single Family	2.5
Forest to Commercial/Industrial	3.7
Pasture to Single Family	2.6
Pasture to Commercial/Industrial	2.7

(2) Conveyance systems.

(a) Conveyance systems shall accommodate the peak discharge from the 100-year, 24-hour design storm based on post-development site conditions.

(b) For purposes of this subsection, a conveyance system shall be considered adequate if the peak discharge and maximum water level is contained within drainage easements or within existing conveyance systems, provided that the conveyance system may overflow or be surcharged if:

(i) storm water runoff does not inundate any of the traveled portion of a public or private road; and

(ii) no portion of a building will be flooded.

(c) Conveyance system computations. To size conveyance systems with drainage areas of less than twenty-five (25) acres, the computation standard shall be the rational method, or its equivalent as approved by the director. For drainage areas of twenty-five (25) acres or more, the minimum computation standard shall be the SCS TR-55 method or equivalent flood routing simulation method as approved by the director.

(3) Stub-outs. If the director does not approve individual lot infiltration systems or dispersion systems designed in accordance with the Snohomish County Drainage Manual, drainage stubouts shall be provided for each proposed lot served by a new drainage pipe system for conveyance. Drainage stub-outs shall comply with the following requirements:

(a) Each drainage stub-out shall be connected to the pipe system and be suitably located at the lowest elevation on the lot, so that it will convey storm water from all future roof down spouts, driveways, and yard drains; provided that this requirement shall not preclude the connection of footing drains or other subsurface drains;

(b) Each drainage stub-out shall have free-flowing drainage to an existing or proposed yard drain or other structure on the pipe conveyance system or to an approved outfall location;

(c) At the time of drainage facilities construction, drainage stub-outs shall be clearly marked in accordance with the EDDS.

(4) Water Quality.

(a) Source control. Source control to prevent storm water pollution shall be provided through the application of source control best management practices (BMPs) during construction and for the developed site following construction. BMPs shall be appropriate for the proposed construction activities, buildings, facilities and intended post-development site uses in accordance with the Snohomish County Drainage Manual, or as approved by the director.

(b) Storm water treatment. Storm water treatment to remove pollutants shall be provided for storm water runoff from the 6-month, 24-hour design storm through the application of water quality best management practices (BMPs). BMPs shall be appropriate for the proposed buildings, facilities, and intended post-development site uses in accordance with the Snohomish County Drainage Manual, or as approved by the director.

(5) Access. The applicant shall provide an access route from a public right-of-way to detention facilities, retention facilities, and treatment facilities. The access route shall be constructed in accordance with the American Association of State Highway Transportation Officials (AASHTO) HS-25 road standard or equivalent, have a gravel or paved driving surface, be a minimum of 15 feet wide, and provide access to all areas necessary for maintenance of the facility. The director may require the applicant to provide access routes to other elements of the proposed drainage system to allow effective inspection or maintenance of drainage facilities.

Easements on the access route shall be granted to the county where required pursuant to SCC 30.63A.330.

Former SCC 30.63A.220 Erosion and sedimentation control requirements.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) The erosion and sedimentation control requirements of paragraphs (a), (b), (c), (d), (e), (f) and (g) of this subsection and subsection (2) shall apply to all development activity. In addition, all erosion and sedimentation control review standards and requirements of this subsection shall apply to any major development activity and the review of drainage plans submitted therefore. The erosion and sedimentation control requirements of this section shall also apply to grading pursuant to chapter 30.51 SCC. The applicant shall meet these standards and requirements by using appropriate best management practices (BMPs) for erosion and sedimentation control in accordance with the Snohomish County Drainage Manual, the EDDS, or as approved by the director.

(a) Erosion on- and off-site. During and after construction, all persons engaging in development activities shall prevent or minimize erosion and sedimentation on-site and shall protect properties and water courses downstream from the site from erosion due to increases in the volume, velocity and peak flow rate of storm water runoff from the site;

(b) Transport of sediment onto adjacent properties. The applicant shall prevent the transport of sediment onto adjacent properties;

(c) Transport of sediment onto paved surfaces. The applicant shall apply BMPs from the Snohomish County Drainage Manual or as approved by the director to prevent or minimize the transport of sediment onto paved surfaces during construction, and if sediment is transported onto a paved surface, to clean the paved surface immediately or at the end of each day as determined by the department.

(d) Stabilizing exposed soil. The applicant shall stabilize denuded areas and soil stockpiles as follows:

(i) from October 1 to April 30, no soil may remain exposed for more than 2 days. From May 1 to September 30, no soil may remain exposed for more than 7 days. On portions of the site where active grading is in progress, the director may extend the deadline for soil stabilization upon determining that the likelihood of erosion impacts is low based on the type and amount of soil exposed, site topography, the potential for discharge to critical areas and lakes, and other factors. Upon finding a risk of erosion, the applicant shall immediately apply soil stabilization, regardless of any previously established deadline, and the director may require immediate stabilization at any time for this purpose. The applicant shall keep materials, equipment, and other resources on site at all times, in adequate quantities to immediately stabilize all soil;

(ii) denuded areas shall be covered by mulch, sod, plastic, or other BMP in the Snohomish County Drainage Manual or approved by the director;

(iii) soil stockpiles shall be stabilized or protected with sediment retention BMPs within 24 hours of formation to prevent soil loss; and

(iv) grading and construction shall be timed and conducted in stages to minimize soil exposure;

(e) Removal of temporary erosion and sedimentation control measures. The applicant may remove all temporary erosion and sedimentation control BMPs within 30 days after final site stabilization or after they are no longer necessary;

(f) Permanent vegetative cover. Before construction acceptance by the county, the applicant shall establish a permanent vegetative ground cover to control soil erosion and to survive severe weather conditions on all areas of land disturbance not otherwise permanently stabilized by impervious surfaces or other means;

(g) Maintenance and repair of erosion and sedimentation control measures. The applicant shall maintain and repair as necessary all temporary and permanent erosion and sedimentation control BMPs to assure their continued performance through construction acceptance and extending to the release of all associated warranty security and maintenance security;

(h) Field marking. Before performing any grading or clearing, the applicant shall mark, in the field, the limits of all proposed clearing and grading, critical areas and their buffers, trees to be retained, and drainage courses;

(i) Protecting storm sewer inlets. The applicant shall protect storm sewer inlets receiving storm water runoff during construction so that water will not enter the inlet without first being filtered or otherwise treated to minimize the amount of sediment entering the inlet;

(j) Sediment retention. The applicant shall route storm water runoff from disturbed areas of the site through sediment ponds, traps or other sediment retention BMPs prior to discharge from the site. The BMPs shall be installed as the first step in grading, and shall be in operation before any other site disturbance occurs. The applicant shall stabilize temporary earth structures within the time period specified in subparagraph (1)(d). If site conditions warrant, the director may require additional sediment controls, including but not limited to, preserving a vegetated buffer strip around the lower perimeter of the site;

(k) Design of temporary sediment ponds and traps. The applicant shall design and construct all temporary sediment ponds and sediment traps in accordance with the EDDS to accommodate the peak discharge from the 10-year, 24-hour design storm based on the post development site conditions. Periodic removal of trapped sediments shall be performed as necessary, however trapped sediment may also be permanently stabilized on-site;

(l) Temporary conveyance systems. The applicant shall design and construct all temporary storm water conveyance systems to withstand, without erosion, the peak discharge from the 2-year, 24-hour design storm. The peak discharge shall be calculated on the basis of post-development site conditions;

(m) Prevention of erosion. The applicant shall design and construct temporary and downstream reaches;

(n) Additional requirements for utilities. The installation of underground utility lines shall be subject to the following additional requirements:

(i) between October 1 and March 31, no more than 500 feet of continuous trench may remain open at one time unless check dams to reduce flow velocities and prevent erosion are installed in accordance with the Snohomish County Drainage Manual;

(ii) excavated material shall be placed on the uphill side of trenches, unless inconsistent with safety or site constraints;

(o) Discharge from dewatering devices. Water from a dewatering device shall discharge into a sediment-retention BMP.

(2) The applicant shall implement fully the erosion and sedimentation control plan at each stage of site development.

(3) From October 1 to March 31, grading requiring a permit under this chapter shall only be permitted if shown to the satisfaction of the director that erosion control measures will likely prevent significant erosion and discharge to critical areas. In making such a determination, the director shall consider the following:

(a) Site conditions including vegetation, soil types, slope and proximity to surface water and critical areas;

(b) Proposed area and amount of grading; and

(c) Proposed erosion and sediment control measures.

Former SCC 30.63A.250 Modifications or waivers of requirements.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Additional or more stringent controls.

(a) If, as applied to a particular development activity, the department determines that compliance with the requirements of this chapter will not result in the mitigation of drainage impacts as required by SCC 30.63A.200(2), or protection of public health, safety and welfare, the director may require the modification of plans, specifications and operations or impose additional or more stringent standards and requirements than those specified in this chapter or in any approval or permit, to the extent necessary to achieve the required mitigation of drainage impacts of the development activity and to protect public health, safety and welfare. Such modifications, standards or requirements may be necessary because of unusual or newly discovered site conditions, such as soil type and topography and weather conditions, or factors that affect fish and other biotic resources. Such modifications, standards and requirements may include but are not limited to scheduling, phasing, or time restrictions.

(b) As part of the department's consideration in applying subsection (a), the department shall consider areas which have been designated in a county-adopted Watershed Management Plan as having unique characteristics which may warrant different drainage standards, specifications or requirements. The department may also consider other factors within the watershed that affect fish and other biotic resources.

(2) Waiver or modification at request of applicant. At the written request of the applicant, the director may waive or modify any requirement of this chapter as provided in this subsection. A waiver or modification pursuant to this subsection shall not be valid unless approved by the director in writing with findings of fact.

(a) The applicant's written request for a waiver or modification of a requirement shall specify the specific provision of this chapter for which the waiver or modification is requested; how the intent of the requirement will otherwise be achieved; the reasons for the request; and how the request meets the criteria of subsection (2)(b), below. The request shall be accompanied by payment of the fee required under SCC 30.86.310. The director shall respond in writing

within thirty (30) days of receipt of the request, either approving or disapproving the request, or requesting more information. The director shall specify the reasons for any decision.

(b) The director may approve a modification or waiver only upon the applicant demonstrating to the director's satisfaction that:

(i) the waiver or modification will not increase drainage impacts; and

(ii) at least one of the following criteria is met:

(A) compliance with the requirement will not substantially achieve the intended purpose because of unusual site conditions;

(B) compliance with the requirement will impose an undue hardship on the applicant that does not generally occur when the requirement is met on other sites, and the hardship is due to special circumstances on the site such as topography, location or surroundings, and is not the result of the applicant's own actions;

(C) the requirement is not technically feasible;

(D) the requirement will cause or poses a significant threat of harm to public health, safety or welfare; the environment; or public or private property; which harm outweighs the requirement's benefits;

(E) an emergency situation necessitates approval of the waiver or modification;

(F) no reasonable use of the property is possible unless the waiver or modification is approved; or

(G) an alternative technology or approach provides a better way to meet or exceed the protections afforded by this chapter, provided that the director may condition final approval and acceptance of the alternative upon proof of successful operation after construction.

Former SCC 30.63A.300 Maintenance responsibility for drainage facilities.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

The owner shall be responsible for maintenance and operation of on-site drainage facilities, unless the county assumes this responsibility pursuant to SCC 30.63A.320.

(1) Drainage facilities shall be maintained at all times so that their water quantity and water quality control functions, and access are not impaired; and shall include keeping all drainage facilities and access areas free of accumulated debris or trash, and all impervious surfaces free from sediment.

(2) Maintenance of all drainage facilities shall be conducted by the responsible party in compliance with an operation and maintenance plan for drainage facilities developed in accordance with the requirements of this chapter.

(3) Any modification to detention facilities for maintenance which is not part of an approved maintenance schedule will require prior approval by the county. A revision to the approved plans, drainage computations or maintenance schedule shall require resubmittal to the county for approval prior to modification.

Former SCC 30.63A.330 Easements granted to the county.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) To protect the public from flooding, water quality degradation, damage to aquatic habitat, and other drainage impacts, easements shall be granted to the county for the right to enter property, at the county's discretion, for the purpose of inspecting, maintaining, modifying, or replacing the following drainage facilities when such drainage facilities are constructed to serve a proposed development activity and are located on the site of the proposed development activity:

(a) All detention facilities, retention facilities, and storm water treatment facilities;

(b) Access routes constructed in accordance with the requirements of SCC

30.63A.210(5);

(c) Conveyance systems that conduct storm water from a public or private right-of-way to detention facilities, retention facilities, and storm water treatment facilities;

(d) Closed-conduit conveyance systems that conduct water downstream of a public or private right-of-way;

(e) Closed-conduit conveyance systems that conduct storm water from detention facilities, retention facilities, and storm water treatment facilities downstream to a public right-of-way;

(f) Any other privately-owned drainage system, if the director determines that damage to a public right-of-way or county property, or a threat to public health, safety, and welfare may occur if the drainage system does not function properly; and

(g) Any other drainage easements offered by the owner of the subject property which may be accepted by the director if the director determines the easement serves the public interest.

(2) If the granting of easements required under subsection (1) would prevent an applicant or owner from making any economically viable use of the site, the applicant or owner may apply for a reasonable use allowance from the director to modify the easement requirements. In granting a reasonable use allowance, the director shall make the minimum modification of the easement requirements necessary to allow an economically viable use of the site.

(3) All easements granted to the county under subsection (1) shall grant access from an opened public right-of-way.

(4) Easements granted to the county under subsection (1) shall be twenty (20) feet in width:

(a) The required width may be increased by the director of public works to the minimum extent necessary when the director of public works determines there are special circumstances applicable to the site or the intended use, for which a wider easement is necessary to allow adequate maintenance of the proposed drainage facility; or

(b) The required width may be reduced by the director of public works when the director of public works determines there are special circumstances applicable to the site or the intended use, including but not limited to, shape, topography, location, or surroundings, which do not generally occur on other sites and which render it infeasible to develop the property for uses allowed under zoning, or which impose undue hardship, provided that the director of public works also determines the proposed drainage facility can be adequately maintained with the reduced easement width.

(5) The easement shall be documented and submitted to the department in a form specified by the director.

(6) Prior to accepting the easement, the director may require the removal of all encumbrances which are inconsistent with the purposes for which the easement is being granted

(7) The owners with a record interest in the property shall sign the easement document, and execute and record a covenant which runs with the land and binds the property, requiring the owners of the property burdened by the easement to maintain the easement and their adjacent property.

(8) No fill, structures, fences, walls, rip rap, buildings or other similar encumbrances to access or restrictions to the flow of water may be placed within the drainage easement without the written consent of the director of public works. Encumbrances placed within a drainage easement in violation of this restriction may be removed by the county at the sole expense of the owner. The county shall endeavor to provide the property owner reasonable advance notification of the need to remove the encumbrance and a reasonable opportunity for the property owner to remove the encumbrance. The property owner shall reimburse the county for the cost of removing encumbrances placed within an easement in violation of this code. Payments shall be made within ninety days of the day the county submits a bill for costs. In the event of nonpayment, the county may bring suit to recover such costs, including its attorney's fees, and upon obtaining a judgment, such amount shall become a lien against the property of the owner as provided in RCW 4.56.190.

Former SCC 30.63A.350 Maintenance covenant.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) The owners with a record interest in the private drainage facilities specified in SCC 24.40.030 shall sign and record a covenant which runs with the land and requires the owners of the property, and their heirs, successors and assigns to maintain the drainage facilities. The covenant shall be in a form specified by the director. The restrictions set forth in such covenant shall include, but not be limited to a description of the owner's maintenance responsibilities and obligations, the right of entry for inspection by the county, and provisions for notice to the persons holding title to the property of a county determination that maintenance and/or repairs are necessary to the facility and a reasonable time limit in which such work is to be completed.

(2) If required maintenance has not been performed, the county may cause said maintenance to be done at the sole expense of the owner. The county shall endeavor to provide the property owner reasonable advance notification of the need to do the maintenance and a reasonable opportunity for the property owner to perform it. The property owner shall reimburse the county for the cost of performing maintenance which the owner has failed to perform in violation of this code. Payments shall be made within ninety days of the day the county submits a bill for costs. In the event of nonpayment, the county may bring suit to recover such costs, including its attorney's fees, and upon obtaining a judgment, such amount shall become a lien against the property of the owner as provided in RCW 4.56.190.

Former SCC 30.63A.360 Separate tracts for detention facilities.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

Detention facilities, retention facilities, and storm water treatment facilities serving residential lots, and access roads serving these facilities, shall be placed in one or more separate tracts owned in common by the property owners served by the facility or owned by a homeowner's association, who shall be responsible for maintenance of such facilities unless dedicated to the county, unless allowed in easements and/or private roads pursuant to SCC 30.63A.250(2) subject to a decision of the director. An applicant may request the installation of detention facilities in public rights-of-way pursuant to SCC 30.63A.250(2) subject to a decision of the director of public works.

Former SCC 30.63A.400 Security and insurance.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

To ensure that all work or actions required by this chapter are satisfactorily performed and completed in accordance with the approved plans, specifications, permit or approval requirements or conditions, securities and insurance shall be provided as required by this chapter and chapter 30.84 SCC.

Former SCC 30.63A.410 Performance security - requirements.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Prior to permit or approval. Prior to the issuance of any permit or approval for any development activity for which a full drainage plan is required, the applicant shall furnish the department a performance security for installation and maintenance of erosion and sediment control measures, including an amount sufficient to abate potential adverse impacts to public and private drainage facilities in the event of failure to complete the project.

(2) Prior to recordation or certificate of occupancy. The applicant for any development activity for which a drainage plan is required who wishes to construct a portion of the required drainage facilities after recordation of the final subdivision or short subdivision or issuance of the certificate of occupancy, shall submit a performance security pursuant to this subsection in a form acceptable to the director prior to obtaining approval of final subdivision or short subdivision or a certificate of occupancy. The director may only accept the performance security for this purpose for drainage facilities for which delayed construction does not pose a threat of significant adverse drainage impacts, as determined by the director. In no case shall the director accept the performance security for delayed construction of retention facilities, detention facilities, storm water treatment facilities, and associated conveyance systems, or erosion and sedimentation control facilities. The performance security required pursuant to this subsection shall be in the amount of 150 percent of the greater of either:

(a) The estimated cost, as determined by the department, of constructing all drainage facilities as specified in the approved drainage plan, or

(b) The estimated cost, as determined by the department, of monitoring drainage facility performance and designing and constructing any corrective work plus other mitigation measures which may be necessary to correct the effects on-site and off-site of inadequate or failed

workmanship, materials or design. The estimated costs shall also include related incidental and consequential costs, and the cost of inspection of the work by the department. The performance security shall remain in effect until final inspection and construction acceptance by the county of all drainage facilities specified by the drainage plan, which may occur up to two (2) years after recordation of a final subdivision or short subdivision or issuance of a certificate of occupancy. The performance security shall not be released until a warranty security is accepted pursuant to SCC 30.63A.420. If the work required by this chapter is not satisfactorily completed by the applicant within two years after recordation or issuance of a certificate of occupancy, the applicant shall forfeit the performance security to the county. Where a surety bond is posted by the applicant, the surety company shall be required, at the option of the department, to either pay the security amount to the county upon demand or complete the work according to the county's terms and conditions. Forfeiture of the performance security hereunder shall be in addition to any other legal or equitable remedy available to the county.

Former SCC 30.63A.420 Warranty security - requirements.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) After final inspection and acceptance of all drainage facilities required by an approved full drainage plan and before recordation of a subdivision or short subdivision or issuance of a certificate of occupancy and before the release of any performance bond required pursuant to SCC 30.63A.410(2), the applicant shall furnish the department a warranty security in a form acceptable to the director in the amount of 150 percent of the estimated cost, as determined by the department, of monitoring drainage facility performance and designing and constructing any corrective work plus other mitigation measures which may be necessary to correct the effects on-site and off-site of inadequate or failed workmanship or materials, or defective design. The estimated cost shall also include related incidental and consequential costs, and the cost of inspection of the work by the department.

(2) The warranty security shall remain in effect for a period of two (2) years after final inspection and construction acceptance by the county of all drainage facilities specified by the drainage plan. Where a project is completed in phases, the warranty period shall begin to run after completion and acceptance by the county of the first phase of the work and shall remain in effect for a period of two (2) years after final inspection and construction acceptance of the final phase.

(3) Release of the warranty security by the county shall constitute final approval of the drainage facilities of the development activity.

(4) If, during the period the warranty security is in effect, the drainage facilities required by an approved full drainage plan do not perform or function satisfactorily or do not accomplish their intended purpose, the department shall notify the applicant and specify an appropriate time in which the applicant shall cure the unsatisfactory performance or perform corrective or restoration work as required. If this additional work is not performed by the applicant either within the time specified or in a manner acceptable to the department, the applicant shall forfeit the warranty security to the county. Where a surety bond is posted, the surety company shall be required, at the option of the department, to either pay the security amount to the county upon'

demand, or complete the additional work according to the county's terms and conditions. Forfeiture of the warranty security shall be in addition to any other legal or equitable remedy available to the county.

Former SCC 30.63A.430 Maintenance security - requirements.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Prior to the release of any warranty security required pursuant to SCC 30.63A.420, the applicant shall furnish the department maintenance security in a form acceptable to the director in the amount of 10 percent of the warranty security required pursuant to SCC 30.63A.420 or \$5,000, whichever is greater.

(2) The maintenance security shall remain in effect for a period of one (1) year beginning from the date of release of the warranty security and final approval of the drainage facilities of the development activity, pursuant to SCC 30.63A.420.

Appendix H: Former Chapter 30.63B Grading Code

Former SCC 30.63B.010 Purpose and applicability.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

The purpose of this chapter shall be to regulate grading to safeguard life, limb, property, and the general welfare. The provisions of this chapter apply to all grading activity. A grading permit is required for all grading activity unless exempted in SCC 30.63B.020. Specific objectives of this chapter are as follows:

- (1) To promote sound, practical, and economical development practices and construction procedures which prevent or minimize impacts to the county's water and adjoining properties;
- (2) To prevent or minimize degradation of water quality and to control the sedimentation of streams, rivers, lakes, wetlands, and other surface water;
- (3) To control soil movement originating on developing land;
- (4) To preserve the suitability of water for recreation and fishing;
- (5) To maintain stable earth foundations for structures and to maintain stable earth during site grading operations by using benches, keys, and compaction of soils or other suitable engineering methods;
- (6) To maintain the quality of the county's water resources;
- (7) To prevent or minimize adverse effects caused by alterations in surface water or ground water quality, quantities, locations, and flow patterns;
- (8) To maintain the safety of county roads and rights-of-way;
- (9) To protect public safety by reducing slope instability and potential for landslides; and
- (10) To encourage development to locate within urban growth areas, and prevent or minimize grading-related impacts therefrom.

Former SCC 30.63B.020 Exemptions.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) The following grading is exempt from the requirements of this chapter provided it occurs outside a critical area and is at least two feet from a property boundary line:

(a) Operation of a solid waste disposal site subject to a solid waste permit pursuant to chapter 70.95 RCW. The expansion, relocation, or closure of a solid waste disposal site is not exempt; (b) Commercial operations involving mining, quarrying, excavating, processing, or stockpiling of rock, sand, gravel, aggregate, or clay if such operations are authorized by a county conditional use permit or administrative conditional use permit for expansion of a nonconforming use as required by chapters 30.22, 30.42C, or 30.43A SCC. This exemption does not apply to:

- (i) reclamation pursuant to SCC 30.63B.360;
- (ii) an operation which the director determines may destabilize or undermine any adjacent or contiguous property; or
- (iii) an operation which the director determines may result in adverse downstream drainage impacts;

(c) Commercial agricultural activities on land designated riverway commercial farmland, upland commercial farmland or local commercial farmland by the comprehensive plan, as follows:

- (i) tilling, soil preparation, and maintenance; and
- (ii) fallow rotation, planting, harvesting;

(d) Site investigative work necessary for land use application submittals such as surveys, soil borings and test pits; percolation tests, and other related activities, provided the land-disturbing activity is no greater than is necessary to accomplish the work;

- (e) Excavation of a well for a single family dwelling; and
- (f) Excavation or filling of cemetery graves.

(2) The following grading does not require a grading permit provided it occurs outside a critical area and is at least two feet from a property boundary line, but shall comply with the minimum erosion control requirements of SCC 30.63A.220(1)(a)-(g):

(a) Grading which does not obstruct or alter an existing drainage course or pattern, and which creates 5,000 square feet or less of impervious surface, and collects or concentrates storm water from 5,000 square feet or less of drainage area, and which:

- (i) totals 100 cubic yards or less of grading on a site in any 24 consecutive months, or
- (ii) totals 500 cubic yards or less in any 24 consecutive months of excavation on a site for a basement or foundation for a single family dwelling and accessory structures, provided that excess excavated material shall be disposed of at a permitted site approved by the director, that the excavation shall commence after the building permit is secured by the applicant, and shall comply with the building permit;

(b) Maintenance or repair on private property of existing commercial agricultural facilities on land designated riverway commercial farmland, upland commercial farmland, or local commercial farmland by the comprehensive plan, which may include drainage facilities, ponds, animal stock flood sanctuaries, animal waste management facilities, agricultural buildings, fences, roads, and bridges; and

(c) New construction (including enlargement) of drainage ditches (including 500 cubic yards or less of grading) for commercial agriculture on private property designated riverway commercial farmland, upland commercial farmland, or local commercial farmland by the comprehensive plan, which does not adversely impact critical areas, lakes, or upstream or downstream properties, when such ditches do not have a surface connection within 100 feet of a critical area or lake, or contain water on site for retention, infiltration, or evaporation.

(3) Utility construction and maintenance.

(a) Minor utility activities in county rights-of-way which, pursuant to title 13 SCC, do not require a Type D permit, are exempt from this chapter.

(b) Utility construction outside critical areas and within county rights-of-way conducted under a Type D7 blanket utility permit pursuant to title 13 SCC which does not adversely impact critical areas, lakes, or upstream or downstream properties shall comply with the erosion control requirements of SCC 30.63.220(1), and is exempt from all other requirements of this chapter. Utilities applying for a blanket utility construction permit shall propose erosion and sedimentation control best management practices for all permitted activities at the time of application.

(c) Major utility construction within impervious surface areas, including trenching or other utility installation or maintenance which cuts and subsequently repairs existing impervious surface outside critical areas and within public rights-of-way conducted under a Type D8 major utility construction permit pursuant to title 13 SCC, which does not adversely impact critical areas, lakes, or upstream or downstream properties, shall comply with the erosion control requirements of SCC 30.63.220(1), and is exempt from all other requirements of this chapter. Utilities applying for a major utility construction permit shall propose erosion and sedimentation control best management practices for the utility construction at the time of application.

(d) Utility maintenance outside critical areas and outside of public rights-of-way which does not add impervious surface and does not adversely impact critical areas, lakes, or upstream or downstream properties shall comply with the erosion control requirements of SCC 30.63.220(1), and is exempt from all other requirements of this chapter.

(e) All utility construction not exempt pursuant to SCC 30.63B.020(a)-(d) above shall comply with all applicable requirements of this chapter.

(f) If a utility must relocate its facility as a direct result of a county department of a public works project, it shall be exempt from the fee requirements of chapter 30.86 SCC.

(4) Emergency repairs. In an emergency, repairs may be undertaken without a prior grading permit or associated drainage review to protect existing development, maintain existing utility function, or to prevent channel impairment if insufficient time exists to obtain a grading permit prior to the time necessary to perform the emergency repair and either:

(a) damage is occurring as a result of flood waters at or exceeding flood stage as defined by the county department of emergency services;

(b) utility maintenance is necessary to repair a utility facility or line which has been damaged as a direct result of the emergency; or

(c) removal and relocation of material relocated onto commercial farmland by flood waters if necessary to protect farming operations. An emergency is a situation which the director determines has developed suddenly, constitutes an imminent threat, and demands immediate action to protect property from damage by elements or to protect the public from a serious and imminent threat to health or safety.

(5) Public works construction projects. Department of public works construction projects shall be exempt from all fee requirements of chapter 30.86 SCC.

Former SCC 30.63B.050 Relationship to other environmental regulations.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) The grading requirements of this chapter, together with applicable requirements from chapters 30.44, 30.62, 30.63A, 30.64, and 30.65 SCC shall be used to determine the impacts of grading and required mitigation for on-site and off-site changes.

(2) When the director, upon consideration of the specific probable adverse environmental impacts onsite and off-site from grading associated with a development activity, determines that the requirements of this chapter and chapters 30.43C, 30.43D, 30.44, 30.62, 30.63A, 30.64, and 30.65 SCC adequately address those impacts, compliance with those requirements shall constitute adequate analysis of and mitigation for the specific adverse or significant adverse

environmental impacts on-site and off-site from grading associated with the development activity, as provided by RCW 43.21C.240.

Former SCC 30.63B.060 Person responsible.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) The county is not responsible for the accuracy of grading plans submitted for approval. The county expressly disclaims any responsibility for the design or implementation of a grading plan. The design and implementation of a suitable grading plan is the responsibility of the owner and applicant.

(2) The applicant or owner shall be responsible for the work to be performed in accordance with the approved plans and specifications and in conformance with the provisions of this code. Any person performing grading subject to a grading permit shall have a copy of a valid grading permit and plans on the work site at all times and shall also be responsible for compliance with the plans, specifications, and permit requirements.

Former SCC 30.63B.100 Engineered grading.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

The following are engineered grading, and require grading plans stamped and signed by a civil engineer:

(1) All grading in excess of 5,000 cubic yards. Such grading also requires submittal of a full drainage plan which meets the requirements of SCC 30.63A.155;

(2) All grading within road rights-of-way, whether public or private. Such grading shall comply with county specifications;

(3) All grading plans for development activities which are subject to environmental review pursuant to chapter 30.61 SCC; and

(4) All other grading that requires civil engineering.

Former SCC 30.63B.110 Reports on geotechnical engineering, soils engineering, engineering geology, and liquefaction.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) If the building official determines that geologic, hydrologic, or soil conditions may present special grading or drainage conditions which damage a public right-of-way, county property or pose a substantial threat to public health, safety, or welfare, the building official may require the applicant to submit a geotechnical engineering report which includes a soils engineering report and/or an engineering geology report pursuant to 30.63B.110(2) and (3) below. If a geotechnical engineering report is required, the applicant's geotechnical engineer or civil engineer shall inspect and approve the suitability of the prepared ground to receive fills and the stability of cut slopes with respect to soil, hydrologic, and geologic conditions. The

geotechnical evaluation shall also address the need for subdrains or other groundwater drainage devices. To verify safety, the building official may require testing for required compaction, soil bearing capacity, stability of all finished slopes and the adequacy of structural fills as a condition of approval.

(2) Soils engineering report. The soils engineering report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures, including structural fills, when necessary, and an opinion on adequacy for the intended use of sites to be developed by the proposed grading as affected by soils engineering factors, including the stability of slopes.

(3) Engineering geology report. The engineering geology report shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and an opinion on the adequacy for the intended use of sites to be developed by the proposed grading, as affected by geologic factors.

(4) Liquefaction report. The building official may require a geotechnical investigation and report in accordance with the 1997 UBC 1804.2 and 1804.5 which addresses the potential for liquefaction.

Former SCC 30.63B.200 Issuance of grading permits.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) A grading permit shall be issued after all other necessary permits and plan approvals required for site development have been obtained or review indicates that approvals are assured by other affected agencies, all fees have been paid, the grading plans and specifications have been approved, and environmental review under chapter 30.61 SCC has been completed, if applicable.

(2) A grading permit shall not be issued for grading in shorelines or grading that is associated with a project in a shoreline until all required permits and approvals have been granted.

(3) From October 1 to March 31, grading, requiring a permit under this chapter, shall only be permitted if shown to the satisfaction of the director that erosion control measures will likely prevent significant erosion and discharge to critical areas. In making such a determination, the director shall consider the following:

(a) Site conditions including vegetation, soil types, slope, and proximity to surface water arid critical areas;

(b) Proposed area and amount of grading; and

(c) Proposed erosion and sediment control measures.

Former SCC 30.63B.210 Grading permit expiration and renewal.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Grading permits shall expire 24 months from the date of issuance, provided that the director may set an earlier expiration date for a permit, or issue a permit that is non-renewable, or both, if the director determines that soil, hydrologic, or geologic conditions on the project site

necessitate that grading and drainage improvements and site stabilization be completed within less time.

(2) If a permit has expired, the applicant shall obtain a renewed permit before starting work authorized under the expired permit.

(3) A permit may be renewed only once for up to 24 additional months, and a request for renewal shall be made no later than 30 days after the date of expiration of the original permit.

(4) Requirements under this chapter that are not expressly temporary during the grading operations, including but not limited to, requirements for erosion control, drainage, and slope management, do not terminate with the expiration of the grading permit.

Former SCC 30.63B.220 Grading inspection.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Grading operations for which a permit is required shall be subject to inspection by the building official. Professional inspection of grading operations shall be provided by the civil engineer, soils engineer, or the engineering geologist retained to provide such services in accordance with (5) below for engineered grading and as required by the building official for other grading.

(2) The civil engineer shall provide professional inspection within such engineer's area of technical specialty, which shall consist of observation and review as to the establishment of line, grade, surface drainage and erosion control of the development area. If revised plans are required during the course of the work they shall be prepared by the civil engineer.

(3) The soils engineer shall provide professional inspection within such engineer's area of technical specialty which shall include observation during grading and testing for required compaction. The soils engineer shall provide sufficient observation during the preparation of the natural ground and placement and compaction of the fill to verify that such work is being performed in accordance with the conditions of the approved plan and the appropriate requirements of this chapter. Revised recommendations relating to conditions differing from the approved soils engineering and engineering geology reports shall be submitted to the permittee, or building official and the civil engineer.

(4) The engineering geologist shall provide professional inspection within such engineer's area of technical specialty, which shall include professional inspection of the bedrock excavation to determine if conditions encountered are in conformance with the approved report. Revised recommendations relating to conditions differing from the approved engineering geology report shall be submitted to the soils engineer.

(5) The applicant or owner shall be responsible for the work to be performed in accordance with the approved plans and specifications and in conformance with the provisions of this code, and shall engage consultants, if required to provide professional inspections on a timely basis. The applicant or owner shall act as a coordinator between the consultant, the contractor and the building official. In the event of changed conditions, the applicant or owner shall be responsible for informing the building official of such change and shall provide revised plans for approval.

(6) The director shall provide grading inspection of subdivisions to assure the future roadways whether public or private are graded in accordance with the approved plans and specifications and in conformance with provisions of this chapter.

(7) The building official shall inspect the project at the various stages of work requiring approval to determine that adequate control is being exercised by the professional consultants.

(8) If, in the course of fulfilling their respective duties under this chapter, the civil engineer, the soils engineer or the engineering geologist finds that the work is not being done in conformance with this chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the applicant or owner and to the building official.

(9) The building official shall notify the applicant or owner of any discrepancies that would necessitate plan revisions or corrections by the professional consultants when notified in (7) above.

(10) Transfer of responsibility. If the civil engineer, the soils engineer, or the engineering geologist of record is changed during grading, the work shall be stopped until the replacement has agreed in writing to accept their responsibility within the area of technical competence for approval upon completion of the work in compliance with approved plans. It shall be the duty of the applicant or owner to notify the director or building official in writing of such change prior to the recommencement of such grading.

(11) The types of soils inspections and standards recognized as acceptable soils tests are:

- (a) ASTM 0 1557, moisture-density relations of soils and soil aggregate mixtures;
- (b) ASTM 0 1556, in place density of soils by the sand-cone method; ASTM 0 2167, the rubber-balloon method; or ASTM 0 2937, the drive-cylinder method; and
- (c) ASTM 0 2922 and 03017, in place moisture content and density of soils by nuclear methods.

Former SCC 30.63B.230 Completion of work.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

Upon completion of the rough grading work and at the final completion of the work, the following final reports and drawings and supplements thereto are required for engineered grading or when professional inspection is performed for grading, as applicable:

(1) An as-built grading plan prepared by the civil engineer retained to provide such services in accordance with SCC 30.51.220(2), showing original ground surface elevations, as-graded ground surface elevations, lot drainage patterns, and the locations and elevations of surface drainage facilities and of the outlets of subsurface drains. As-constructed locations, elevations and details of subsurface drains shall be shown as reported by the soils engineer. Civil engineers shall state that to the best of their knowledge the work within their area of responsibility was done in accordance with the final approved grading plan which is part of an approved grading permit;

(2) A report prepared by the soils engineer retained to provide such services in accordance with SCC 30.63B.220(3) including locations and elevations of field density tests, summaries of field and laboratory tests, other substantiating data, and comments on any changes made during grading and their effect on the recommendations made in the approved soils engineering

investigation report. Soils engineers shall submit a statement that, to the best of their knowledge, the work within their area of responsibilities is in accordance with the approved soils engineering report and applicable provisions of this chapter;

(3) A report prepared by the engineering geologist retained to provide such services in accordance with SCC 30.63B.220(4), including a final description of the geology of the site and any new information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan. Engineering geologists shall submit a statement that, to the best of their knowledge the work within their area of responsibility is in accordance with the approved engineering geologist report and applicable provisions of this chapter; and

(4) The grading contractor shall submit, in a form prescribed by the building official, a statement of conformance to said as-built plan and the specifications. The applicant or owner shall notify the director or building official when the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage facilities and their protective devices, and all erosion-control measures have been completed in accordance with the final approved grading and drainage plans, and the required reports have been submitted.

Former SCC 30.63B.240 Bonds or performance security.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) The director may require bonds or performance security to ensure that the work, if not completed in accordance with the approved plans and specifications, will be corrected, in accordance with chapter 30.84 SCC.

(2) For drainage facilities required pursuant to this chapter, the director may require security and insurance in accordance with SCC 30.63A.400.

Former SCC 30.63B.250 Modification of permit conditions.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

Before and after issuance of a grading permit, the director may require modifications of grading plans, specifications and operations or impose additional or more stringent standards and requirements than those specified in this chapter or in any approved grading permit, to the extent necessary to protect public health, safety, and welfare. Such modifications, standards, or requirements may be necessary because of unusual or newly discovered site conditions including, but not limited to, soil type, topography, and weather conditions. Such modifications, standards and requirements may include, but are not limited to scheduling, phasing, or time restrictions.

Former SCC 30.63B.310 Cuts or excavations.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Unless otherwise recommended in the approved soils engineering or engineering geology report, cuts shall conform to the provisions of this section. These provisions shall not apply to minor cuts which are less than four feet in height when such cuts do not pose a threat to adjoining properly.

(2) The slope of cut surfaces shall be no steeper than is safe for the intended use and shall be no steeper than 1 unit vertical in 2 units horizontal (50% slope) unless the applicant furnishes a soils engineering report or an engineering geology report, or both, stating that the site has been investigated and giving an opinion that a cut at a steeper slope will be stable and not create a hazard to public or private property.

(3) Slopes shall be stabilized after being cut. The soils engineering or an engineering geology report, or both, shall verify that the slopes shall not be subject to on-going erosion that would adversely impact public or private property. Erosion hazard areas as defined in chapter 30.62 SCC shall be described and shown in the soils engineering report.

(4) Cuts or excavations within critical areas shall not occur unless a critical area study and mitigation is provided consistent with requirements of chapter 30.62 SCC.

Former SCC 30.63B.320 Fills or embankments.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) General. Unless otherwise recommended in the approved soils engineering report, fills shall conform to the provisions of this section. These provisions shall not apply to minor fills not intended to support structures, and which are less than four feet in height when such fills do not pose a threat to adjoining properly.

(2) Preparation of ground. Fill slopes shall not be constructed on natural slopes steeper than 1 unit vertical in 2 units horizontal (50% slope).

(3) Fill material.

(a) Detrimental amounts of organic material shall not be permitted in fills. Except as permitted by the building official, no rock or similar irreducible material with a maximum dimension greater than 12 inches (305 mm) shall be buried or placed in fills.

(b) Exception: The building official may permit placement of larger rock when the soils engineer properly devises a method of placement, and continuously inspects its placement and approves the fill stability. The following conditions shall also apply:

(i) prior to issuance of the grading permit, potential rock disposal areas shall be delineated on the grading plan;

(ii) rock sizes greater than 12 inches (305 mm) in maximum dimension shall be 10 feet (3048 mm) or more below grade, measured vertically; and

(iii) rocks shall be placed so as to assure filling of all voids with well-graded soil.

(4) Compaction. All fills intended to support structures or private roads shall be compacted to a minimum of 90% of maximum density. All fills within public or private rights of way shall be compacted in accordance with county specifications.

(5) Slope. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes shall be no steeper than 1 unit vertical in 2 units horizontal (50% slope).

(6) Fills shall not be placed in critical areas unless a critical area study is performed and mitigation is provided in a manner consistent with the requirements of chapter 30.62 SCC.

Former SCC 30.63B.330 Setbacks for cuts or fills.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Field marking. Before performing any grading or clearing subject to a grading permit pursuant to this chapter, the applicant shall mark, in the field, the limits of all proposed clearing and grading, sensitive and critical areas and their buffers, trees to be retained, and drainage courses.

(2) Cut and fill slopes shall be set back from site boundaries in accordance with this section. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary.

(3) The top of cut slopes shall not be made nearer to a site boundary line than one fifth of the vertical height of cut, but in no event nearer than two feet (610 mm) from the boundary line. The setback shall be increased as necessary for stability of any required subsurface drainage or surcharge.

(4) The toe of fill slope shall not be made nearer to the site boundary line than one half the height of the slope, put in no event nearer than two feet (610 mm) from the boundary line.

Former SCC 30.63B.340 Drainage and terracing.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Unless otherwise indicated on the approved grading plan, drainage facilities and terracing shall conform to the provisions of this section for cut or fill slopes steeper than 1 unit vertical in 3 units horizontal (33.3% slope).

(2) Terraces at least 6 feet (1,829 mm) in width shall be established at not more than 30-foot (9,144 mm) vertical intervals on all cut or fill slopes to control surface drainage and debris, except that where only one terrace is required, it shall be at mid-height. For cut or fill slopes greater than 60 feet (18,288 mm) and up to 120 feet (36,576 mm) in vertical height, one terrace at approximately mid-height shall be 12 feet (3,658 mm) in width. Terrace widths and spacing for cut and fill slopes greater than 120 feet (36,576 mm) in height shall be designed by the civil engineer and approved by the director or building official. Suitable access shall be provided to permit proper cleaning and maintenance.

(3) Swales or ditches on terraces shall have a minimum gradient of 0.5%.

(4) Cut or fill slopes shall be provided with subsurface drainage as necessary for stability and proper conveyance of groundwater.

(5) All drainage facilities shall be designed to carry waters to the nearest practicable drainage way in a safe manner approved by the director or building official, and shall comply with provisions of chapter 30.63A SCC, if applicable. Outfalls or points of discharge shall be designed using best management practices and construction procedures which prevent or minimize erosion.

(6) Building pads shall have a drainage gradient of two percent toward approved drainage facilities, unless waived by the building official. Exception: The gradient from the building pad may be 1 percent if all of the following conditions exist throughout the permit area:

(a) No proposed fills are greater than 10 feet (3048 mm) in maximum depth; .

(b) No proposed finish cut or fill slope faces have a vertical height in excess of 10 feet (3048 mm); and;

(c) No, existing slope faces steeper than one unit vertical in 10 units horizontal (10% slope) have a vertical height in excess of 10 feet (3,048 mm).

(7) Paved interceptor drains shall be installed along the top of all cut slopes where the tributary drainage area above slopes toward the cut and has a drainage path greater than 40 feet (12,192 mm) measured horizontally. Interceptor drains, if required, shall be paved with a minimum of three inches (76 mm) of concrete or gunite and reinforced. They shall have a minimum depth of 12 inches (305 mm) and a minimum paved width of 30 inches (762 mm) measured horizontally across the drain. The slope of drain shall be approved by the building official.

(8) All grading which requires a grading permit pursuant to this chapter shall comply with chapter 30.63A SCC.

Former SCC 30.63B.350 Erosion control.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) The faces of cut and fill slopes shall be prepared and maintained to control against erosion. This control may consist of effective planting, hydroseeding, or mulching. The protection for the slopes shall be installed as soon as practicable in accordance with SCC 30.63A.220, and prior to calling for final approval. Where cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be omitted.

(2) Where necessary to provide safety to adjoining properties, check dams, cribbing, riprap, silt fences or other devices and methods shall be employed.

(3) All grading shall comply with applicable drainage and erosion control requirements of SCC 30.63A.100, 30.63A.200, and 30.63A.220.

Appendix I: Specific Code Sections Cited in Chapter 30.66B Concurrency and Road Impact Mitigation

Former SCC 30.66B.070 Record of development obligations.

(Adopted by Amended Ordinance 03-127, effective date November 17, 2003)

(1) Satisfaction of development obligations is required as a pre-condition to development approval, unless the development obligation is deferred to issuance of subsequent building permit necessary to initiate the development.

(a) For subdivisions and short-subdivisions, any development obligations that will be deferred to the building permit stage will be recorded on the final plat. All development obligations related to subdivisions and short-subdivisions that are not deferred to building permit issuance shall be satisfied prior to the recording of the final plat.

(b) For all development other than subdivisions and short-subdivisions in which satisfaction of development obligations is deferred, the concurrency certificate and a record of development obligations shall be recorded on the title of the property on which the development is located.

(2) The form of the record of development obligations shall be as follows:

(a) For all developers required as a condition of approval under this chapter to meet transportation demand management requirements, or to mitigate impacts on roads under the jurisdiction of another agency, the record of development obligations shall state the measures proposed by the developer pursuant to SCC 30.66B.055(4).

(b) For developers choosing to construct offsite improvements to satisfy a transportation impact mitigation obligation of a development, the record of development obligations shall describe the offsite improvements to be constructed by the developer.

(c) For all developments required as a condition of approval to pay a road system impact fee under the authority provided to the county under RCW 82.02.050(2), the document stating the mitigation requirements imposed shall be a record of development obligations.

(d) The record of development obligation shall document the concurrency determination for the development including the concurrency determination date, and any conditions that have to be satisfied by the developer prior to building permit issuance.

(3) Where the developer is not the legal owner of the property on which the development is proposed, the legal owner shall sign a statement agreeing that the mitigation measures imposed will be binding on the real property and will run with the land until the development approval has expired or the obligations contained within the document or agreement have been fulfilled. The statement shall be attached to the record of development obligations. .

(4) The record of development obligations shall contain, as appropriate, a complete legal description of the real property which is the subject of the development, an adequate description of the mitigation measures, the development and/or road system events triggering subsequent phases or parts of the mitigation measures, performance security, and notice to subsequent purchasers of the mitigation obligations related to development of the property. The continued validity of the development permit approval shall be conditioned upon adequate compliance with terms and conditions of the mitigation measures and the written agreement.

(5) Voluntary agreements and records of development obligations shall be recorded as a precondition to approval of conditional and administrative conditional use permits, and rezone applications accompanied by an official site plan, or at the time of recording for binding site plans for nonresidential use. If the development is a subdivision or short subdivision for nonresidential use, voluntary agreements and records of development obligations shall be recorded prior to or at the time of recording.

(6) Voluntary agreements and records of development obligations will be released from the title of the property on which the development is proposed upon request to the director of public works once the development approval has expired or the obligations contained within the document or agreement have been fulfilled.

Former SCC 30.66B.120 Concurrency determination – required

(Added by Amended Ordinance 02-064, effective February 1, 2003)

(1) The department of public works shall make a concurrency determination for each development application to ensure that the development will not impact a county arterial unit in arrears. The approving authority shall not approve any development that is not determined concurrent under this chapter.

(2) A concurrency determination shall be documented by a “certificate of concurrency” which shall be included as part of the director of public work’s recommendation made pursuant to SCC 30.66B.050. The certificate shall state:

- (a) When the concurrency determination was made,
- (b) Whether the concurrency certificate is conditioned upon satisfaction of specific conditions, and
- (c) The expiration date of the certificate of concurrency.

SCC 30.66B.125 Concurrency determination – process

(Added by Amended Ordinance 02-064, effective February 1, 2003)

(1) The department of public works shall make a concurrency determination following receipt of a development application and review of appropriate traffic data. Forecasts used in making concurrency determinations shall be in accordance with SCC30.66B.145. The department of public works will include a concurrency determination in its first written traffic-related comments to the department following receipt of the application or receipt of other required information or analysis.

(2) In its concurrency determination, the department of public works shall find that, at the time of the determination, the development is concurrent, the development is not concurrent, or that additional information is needed to determine whether or not the development is concurrent. The department of public works will document in writing the methodology and information used in making the concurrency determination.

SCC 30.66B.130 Concurrency determination – methodology

(Added by Amended Ordinance 02-064, effective February 1, 2003)

(1) In determining whether or not a proposed development is concurrent, the department of public works shall analyze likely road system impacts on arterial units based on the size and location of the development.

(2) A concurrency determination is based on an evaluation of road system impacts for a proposed development within the boundaries of the development's transportation service area. The evaluation will identify the development's impacts on any arterial unit in arrears as specified in SCC 30.66B.160, or any arterial unit designated at ultimate capacity.

(3) A development's forecast trip generation at full occupancy shall be the basis for determining the impacts of the development on the road system. The department of public works will accept valid data from a traffic study prepared pursuant to this chapter or will use the latest edition of the ITE Trip Generation report published by the Institute of Transportation Engineers. Adjustments will be made for trip reduction credits approved under SCC 30.66B.640 - .650.

(4) If a development is proposed within a transportation service area that contains no arterial units in arrears and/or designated ultimate capacity arterial units, then the development shall be determined to be concurrent, except that if the development generates more than fifty peak-hour trips, the requirements of SCC 30.66B.035 shall also apply.

***Former* SCC 30.66B.135 Development deemed concurrent**

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003; Amended Ord. 03-127, Nov. 5, 2003, Eff date Nov. 17)

The following development shall be deemed concurrent:

(1) Any residential development that generates fewer than seven peak-hour trips, or any nonresidential development that generates fewer than five peak-hour trips;

(2) Any development that has a valid pre-application concurrency approval pursuant to SCC 30.66B.175; and

(3) Building permit applications for development within an approved binding site plan, rezone accompanied by an official site plan, nonresidential subdivision or short subdivision for which a concurrency determination has already been made in accordance with this chapter if the following are met:

(a) The concurrency determination for the development approval has not expired;

(b) The building permit will not cause the approved traffic generation of the prior approval to be exceeded;

(c) There is no change in points of access; and

(d) Mitigation required pursuant to the previous development approval is performed as a condition of building permit issuance.

SCC 30.66B.145 Concurrency determination-forecasting level-of-service

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003; Amended Ord. 03-127, Nov. 5, 2003, Eff date Nov. 17, 2003)

(1) An inventory of developments that have been determined concurrent, also referred to as "developments in the pipeline," will be used to estimate future traffic volumes for forecasting future level-of-service conditions. This inventory will be established and maintained by the department of public works in accordance with the department's administrative rules. Developments in the pipeline will also include developments given pre-application concurrency approval pursuant to SCC 30.66B.175.

(a) The department of public works shall use the inventory of developments in the pipeline when conducting analysis to determine whether an arterial unit is in arrears. Inventories or estimates shall be in accordance with the department of public works' administrative rules.

(b) A developer may be required to provide a forecast of future level-of-service conditions to the department of public works for purposes of making a concurrency determination on a proposed development. When required to provide a forecast, the developer shall use the inventory of developments in the pipeline, as established and maintained by the department of public works, when providing a forecast of future level-of-service conditions to the department. The inventory of developments in the pipeline used for making a concurrency determination on a proposed development shall not include any development that has been deemed concurrent subsequent to the proposed development.

(2) Estimates of future traffic volumes used for purposes of making level-of-service forecasts for concurrency determinations shall consist of the sum of the following: the current traffic volumes, the additional traffic volume that will be generated by the proposed development, and the additional traffic volume that will be generated by other developments in the pipeline.

(a) Estimates of current traffic volumes will be based on recent counts acceptable to the department of public works. The department of public works will provide them when available. When acceptable counts are not available, the applicant must provide them. The department of public works may specify by administrative rule the methodology for performing traffic counts of current traffic volumes.

(b) Additional traffic volume that will be generated by the proposed development will be based on the development's forecast trip generation at full occupancy, in accordance with SCC 30.66B.130(3).

(c) The following shall apply to forecasting additional traffic volume that will be generated by the inventory of developments in the pipeline:

(i) the inventory of developments in the pipeline shall not include developments that have been deemed concurrent subsequent to the proposed development;

(ii) estimates of additional traffic volume that will be generated by the inventory of developments in the pipeline will include, at minimum, residential developments generating seven (7) or more peak-hour trips and commercial developments generating five (5) or more peak-hour trips that have been determined concurrent based on the department's concurrency determination;

(iii) the department may, in its discretion, determine that certain developments in the pipeline should not be included in the inventory. The department may exclude a development, or

part of a development, in the pipeline based on a factual demonstration by the applicant that one or more of the following is applicable:

- (A) a development is not going to be constructed;
 - (B) a development is not going to be approved; or
 - (C) a development was already occupied at the time the current traffic volumes were counted; and
- (iv) a threshold of three AM and/or PM peak-hour trips will be used for trip distributions.

(d) The department of public works will provide the applicant with the information in the department's inventory of developments in the pipeline and the number of trips added to the individual traffic movements at the intersections on the identified arterial units.

(e) The department of public works will identify the arterial unit(s) for which an applicant must make estimates of future traffic volumes and specify the methodology for level-of-service forecasts used by the applicant in forecasting level of service from the estimates of future traffic volumes. Estimates of future traffic volumes may be required of the applicant for weekday a.m. and p.m. peak hour vehicle trips for any traffic movements on any intersection located on the identified arterial unit(s) including termini.

(f) Forecasts will analyze traffic impacts for arterial units in the development's road system for the "forecast year" (i.e., the year of the proposed expiration date of the development's concurrency determination).

SCC 30.66B.155 Concurrency determination – expiration

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003; Amended Ord. 03-127, Nov. 5, 2003, Eff date Nov. 17, 2003)

(1) The concurrency expiration date for a development shall be six years after the concurrency determination date, except

(a) When it is determined by the director of public works that an earlier concurrency expiration date should be established due to the impact of the development on level-of-service conditions;

(b) When a later concurrency expiration date is established in accordance with SCC 30.66B.810; and

(c) The concurrency expiration date for a binding site plan may, at the request of the applicant, be established as the date of the latest certificate of occupancy for the development as proposed by the applicant, provided that the same or later date is used for the forecast year in the traffic study for determining impacts on level-of-service in accordance with SCC 30.66B.145.

(2) The concurrency expiration date shall be based upon the size of the development, the level of service of impacted arterial units, and shall be consistent with the level-of-service standards and revenue/expenditure forecast adopted in the comprehensive plan.

(3) Building permits for a development must be issued prior to expiration of the concurrency determination for the development, except when

(a) The development is a residential subdivision or short-subdivision, in which case the subdivision or short-subdivision must receive preliminary approval prior to expiration of the concurrency determination, or

(b) The development is a residential development which requires site plan approval, in which case the site approval must be issued prior to expiration of the concurrency determination, or

(c) The development is a conditional or administrative conditional use permit with no associated building permits, in which case the conditional or administrative conditional use permit must be issued prior to expiration of the concurrency determination for the development.

(4) No additional concurrency determination is required for residential dwellings within a subdivision or short subdivision that receives preliminary approval in compliance with this section.

(5) If a concurrency determination expires, or within one year will expire, the director of public works shall, at the request of the developer, consider evidence that conditions have not significantly changed, make a new concurrency determination, and may establish a new concurrency expiration date in accordance with this section. If the concurrency determination for a binding site plan has expired, subsequent building permit applications for development within the binding site plan will be evaluated for concurrency as stand-alone development applications in accordance with SCC 30.66B.100 - .185.

(6) A concurrency determination is tied to the development application upon which the determination is made, cannot be transferred to another development application, and always expires in cases in which the underlying development application expires.

30.66B.210 Inadequate road condition determination requirements

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Regardless of the existing level of service, development which adds three or more p.m. peak-hour trips to a location in the road system determined to have an existing inadequate road condition (IRC) at the time of imposition of mitigation requirements, or development whose traffic will cause an IRC at the time of full occupancy of the development, must eliminate the IRC. To eliminate an inadequate road condition means to make sufficient changes to the road system to allow the county engineer to determine that the location no longer constitutes an inadequate road condition.

(2) If a developer wishes to challenge the department's determination that the development adds three or more p.m. peak-hour trips through any IRC location on the road system, the developer may submit a traffic distribution analysis in accordance with SCC30.66B.035. If the traffic distribution analysis shows that the development does not add three or more p.m. peak-hour trips through the IRC location, the application for the development will be allowed to proceed with no obligation to eliminate an IRC.

(3) If a location uninvestigated by the department of public works is brought to the attention of the hearing body at public hearing as a potential IRC, the hearing body shall determine if investigation is warranted and if so, the hearing body shall not conclude the hearing until the location has been investigated and a determination of its status made by the county

engineer. The county engineer's investigation shall occur within 14 days of the identification of the potential IRC, or within 14-days of submission of a traffic study by the developer, if the county engineer determines one is required.

(4) The county engineer shall determine whether or not a location constitutes an IRC in accordance with department of public works administrative rule. The county engineer's determination that a location constitutes an IRC is final and is not subject to review or appeal pursuant to SCC 30.66B.820, but the effect of an IRC location determination on a development may be appealed in accordance with SCC 30.66B.820.

(5) A development's access onto a public road shall be designed so as not to create an IRC. Developments shall be designed so that IRCs are not created.

SCC 30.66B.310 Road system impact fee

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) A development shall mitigate its impact upon the future capacity of the road system by paying a road system impact fee reasonably related to the impacts of the development on arterial roads located in the same transportation service area as the development, at the rate identified in SCC 30.66B.330 for the type and location of the proposed development. A development's road system impact fee will be equal to the development's new average daily traffic (ADT), based on the latest edition of the ITE Trip Generation report published by the Institute of Transportation Engineers, times the per trip amount for the specific transportation service area identified in SCC 30.66B.330, except that the following adjustments may be made:

(a) In accordance with RCW 82.02.060(4), the director of public works shall have the authority to adjust the amount of the impact fee to consider unusual circumstances in specific cases to ensure that impact fees are fairly imposed;

(b) In accordance with RCW 82.02.060(5), the director of public works shall have the authority to adjust the amount of the impact fee to be imposed on a particular development to reflect local information when available, including studies and data submitted by the developer; and

(c) Adjustments will be made for trip reduction credits approved under SCC 30.66B.640 - .650.

(2) As required by RCW 82.02.060(3), credit against a development's road system impact fee shall be provided for dedication of land for, improvement to, or construction of any capacity improvements that are identified in the transportation needs report as part of the road system impact fee cost basis and are imposed by the county as a condition of approval.

(3) As provided for by RCW 82.02.060(2), exemption from road system impact fees may be provided for low income housing and other development with a broad public purpose, provided that the road system impact fee for such development is paid from public funds other than impact fee accounts. The developer requesting the exemption shall be responsible for identifying the source of and securing the availability of such public funds.

(4) Developments which are determined to cause a greater reduction in ADT on the road system than the number of new ADT generated by the development, by promoting the use of

transit or other means, will be determined to generate no new ADT for the purpose of determining the developments road system impact fee.

Former SCC 30.66B.330 Fee schedule.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

Location	Type	New Trip Amount	
Transportation Service Area (TSA)	Residential/ Commercial	Developments Inside the Urban Growth Area (UGA)	Developments Outside the Urban Growth Area (UGA)
A	Residential	\$205	\$224
A	Commercial	\$174	\$192
B	Residential	\$337	\$368
B	Commercial	\$286	\$317
C	Residential	\$203	\$221
C	Commercial	\$172	\$190
D	Residential	\$226	\$247
D	Commercial	\$192	\$213
E	Residential	\$195	\$213
E	Commercial	\$166	\$183
F	Residential	\$195	\$213
F	Commercial	\$166	\$183

Former SCC 30.66B.340 Timing of road system impact fee payment.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003; Amended Ord. 03-127, Nov. 5, 2003, Eff date Nov. 17, 2003)

(1) Payment of a road system impact fee is required prior to building permit issuance. Where no building permit will be associated with the development, such as a development requiring a conditional or administrative conditional use permit, payment is required as a precondition to approval. For a binding site plan for which the concurrency expiration date is more than six years after the concurrency determination date, one-half of the payment is required prior to recording of the binding site plan with record of survey.

(2) The amount of the road system impact fee payment shall be based upon the rate in effect at the time of filing of a complete application for development.

SCC 30.66B.410 Frontage improvement requirements

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) All developments will be required to make frontage improvements along the parcel's frontage on any opened, constructed, and maintained public road. The required improvement

shall be constructed in accordance with the EDDS, including correction of horizontal and vertical alignments, if applicable.

(2) The improvement standard will be established by the director of public works in accordance with SCC 30.66B.430 and as outlined in the department of public work's administrative rules on frontage improvements.

Former SCC 30.66B.430 Extent of improvements.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) The extent of frontage improvements, offsite road improvements, or access and transportation circulation improvements necessary to meet the requirements of this chapter and Title 13 SCC will be established by the director of public works. The developer may be responsible for preparing any aspect of engineering design or investigation necessary to establish the extent of improvements if the director of public works does not have the design or investigation programmed or under way consistent with the development's schedule. The traffic study shall contain analysis of the extent of any improvements determined to be necessary by the director of public works.

(2) Design of improvements shall be in accordance with the EDDS. Where an interim or partial improvement is implemented through SCC 30.66B.440, the improvement design shall be compatible with the adopted standard.

(3) In determining improvements required, the director of public works will consider, with other relevant factors, the following:

- (a) Extent of the development proposed;
- (b) Priority of improvements to involved county roads in the county's six-year transportation improvement plan;
- (c) Condition of existing transportation facilities in comparison to adopted standards;
- (d) Existing and projected land uses and development densities;
- (e) Current and projected levels of service on the affected road system;
- (f) Availability of public transit;
- (g) Any traffic study submitted;
- (h) Availability of a specific improvement program;
- (i) The number of dwelling units currently using the road system that must be improved and projected to use the road system after full occupancy of the development;
- (j) The needs of low-income persons for decent, affordable, low-cost housing;
- (k) Transportation system or demand management measures proposed by the developer;
- (l) The need for pedestrian and bicycle facilities;
- (m) Continuity with existing and proposed improvements;
- (n) Development standards of adjacent cities; and
- (o) The need for safety improvements for school children.

SCC 30.66B.510 Right-of-way requirements

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) A developer shall be required to dedicate, establish, or deed right-of-way to the county for road purposes as a condition of approval of a development, when to do so is reasonably necessary as a direct result of a proposed development, for improvement, use or maintenance of the road system serving the development.

(2) In cases where the dedication, establishment, or deeding of additional right-of-way cannot be reasonably required as a direct result of the proposed development but such right-of-way is necessary for future expansion of the public road system, the developer shall reserve the area needed for right-of-way for future conveyance to the county. Building setback and all other zoning code requirements will be established with respect to the reservation line rather than the deeded, established, or dedicated right-of-way line. The area reserved for right-of-way may be donated to the county or will be purchased by the county through a county road project.

30.66B.520 Right-of-way width

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Right-of-way shall be dedicated, established, or deeded to provide sufficient right-of-way widths to accommodate road improvement needs. The standard right-of-way widths based on road classification as defined in the EDDS are:

Non-Arterials	
Access Streets-Urban Growth Area	50 feet
Access Roads-Rural Area	60 feet
Sub collector Streets-Urban Growth Area	50 feet
Sub collector Roads-Rural Area	60 feet
Collector Streets-Urban Growth Area	60 feet
Collector Roads-Rural Area	60 feet
Arterials	
Collector Arterials-Urban Growth Area	70 feet
Minor Collector-Rural Area	70 feet
Minor Arterials-Urban Growth Area	80 feet
Major Collector-Rural Area	80 feet
Principal Arterials-Urban Growth Area	100 feet
Principal or Minor Arterial Rural Area	100 feet

(2) Wider or narrower right-of-way widths than the standard may be required as determined by the county engineer, based on one or more of the following criteria:

(a) Contents of the transportation element of the comprehensive plan, including but not limited to the provision of safe and efficient movement of pedestrians, equestrians and bicyclists with emphasis on transit facilities, schools, and parks and scenic areas;

(b) The likelihood of maintenance of sidewalks, walkways, trails, bikeways or planters outside of public right-of-way;

(c) An adopted design report, roadway design or right-of-way plan which calls for a different right-of-way width for the road under investigation;

(d) Nature of the roadway and road involved, and its impact on neighboring properties including width, slopes, cuts, fills, vertical and horizontal curvature, sight distance at intersections, and the nature of the development and the land upon which it is situated;

(e) EDDS requirements including but not limited to land alteration, site access, road types and geometrics, road elements and roadside features, drainage and utilities;

(f) Any other factors affecting the health, safety, property and general welfare of the public, including users of the roads, sidewalks, walkways, trails or bikeways and the development; and

(g) The provision of adequate public transit facilities.

(3) Right-of-way widths may not be reduced for arterials below the following minimums without express approval from the county council:

(a) Collector Arterials-Urban Growth Area 60 feet;

(b) Minor Collector-Rural Area 60 feet;

(c) Minor Arterials-Urban Growth Area 70 feet;

(d) Major Collector-Rural Area 70 feet;

(e) Principal Arterials-Urban Growth Area 80 feet; and

(f) Principal or Minor Arterial-Rural Area 80 feet.

(4) The county engineer is authorized to include in the EDDS standard drawings depicting the standard right-of-way widths and modification criteria as contained within this chapter.

SCC 30.66B.610 Transportation demand management - general

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) Transportation demand management (TDM) is a strategy for reducing vehicular travel demand, especially by single occupant vehicles during commuter peak hours. TDM offers a means of increasing the ability of transportation facilities and services to accommodate greater travel demand without making expensive capital improvements. This is a particularly important strategy in cases where road facilities have already reached the practical limit for physical expansion, congestion is severe, and projections for future traffic indicate continued growth.

(2) TDM employs a wide range of measures to increase the use of ridesharing, carpools, vanpools, transit and non-motorized transportation such as bicycling and walking. Transportation

coordinators, ride match assistance, preferential parking, flextime, transit subsidies, increased parking fees, reduced parking supply, and provision of shuttle services in areas lacking transit service are examples of TDM measures. TDM measures can be characterized either as site-design features facilitating TDM compatibility which consist of fixed physical features in site design or capital facilities, and programmatic measures specific to users of the sites (e.g., employers, customers, clients).

SCC 30.66B.630 Transportation demand management – required

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) All new development in urban growth areas shall provide sufficient transportation demand management measures to indicate the potential for removing a minimum of five percent of a development's p.m. peak-hour trips from the road system. This requirement may be met by:

- (a) Earning trip reduction credits for construction of onsite design features pursuant to SCC 30.66B.640;
- (b) Construction of offsite TDM measures pursuant to SCC 30.66B.620; or
- (c) A voluntary payment into an account established for the purpose of contributing to the construction or purchase of specific TDM measures pursuant to SCC 30.66B.625.

(2) A developer is encouraged to provide additional TDM measures through earning additional trip reduction credits to mitigate traffic impacts beyond the five percent minimum established in SCC 30.66B.630, as provided in SCC 30.66B.650.

SCC 30.66B.640 Transportation demand management – trip reduction credits for construction of onsite design features

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

(1) A developer required to provide TDM in accordance with this chapter may fully or partially satisfy the requirement by earning trip reduction credits for onsite design features.

(2) The department of public works will allow a five percent trip reduction credit to any commercial development including multi-family residential deemed "TDM compatible" by incorporating all of the following on-site design features to the satisfaction of the department:

- (a) A design for a basic circulation system that provides continuity of pedestrian systems related to the primary road network;
- (b) A safe, convenient pedestrian facility that meets the EDDS that joins the front building entrance(s) directly with frontage improvements;
- (c) A safe, convenient pedestrian facility that meets the EDDS that joins the front building entrance(s) with all other on-site front building(s) entrances;
- (d) A safe, convenient pedestrian facility that meets the EDDS that joins building entrance(s) with any bus stop or pedestrian facility (e.g., commuter trail) located adjacent to the development;

(e) Where practicable and desirable for pedestrian access, provision of special easements to facilitate pedestrian circulation between the site and adjacent neighborhoods, schools, shopping areas, transit facilities, or other activity centers;

(f) Where practicable and desirable the use of minimum setbacks to reduce walking distances;

(g) Where practicable and desirable the placement of vehicle parking to the sides and the rear of the buildings;

(h) Where practicable and desirable lighting and weather protection for pedestrian facilities;

(i) For nonresidential developments, secure bicycle parking (preferably covered) spaces located near the front entrance(s) that number at least two percent of the development's calculated p.m. peak-hour trips; and

(j) For employment sites, signed preferential parking spaces for carpools or vanpools that number at least six percent of any employee parking spaces.

(3) The department of public works will allow a five percent trip reduction credit to any subdivision or short subdivision for single-family and/or duplex residential units deemed "TDM compatible" by incorporating all of the following on-site design features to the satisfaction of the department:

(a) A design for a basic circulation system that provides continuity of pedestrian systems related to the primary road network;

(b) A safe, convenient pedestrian facility that meets the EDDS that joins building entrance(s) with any bus stop or pedestrian facility (e.g., commuter trail) located adjacent to the development;

(c) Where practicable and desirable for pedestrian access, provision of special easements to facilitate pedestrian circulation between the site and adjacent neighborhoods, schools, shopping areas, transit facilities, or other activity centers;

(d) Where practicable and desirable, lighting and weather protection for pedestrian facilities; and

(e) An overall density of at least four dwelling units per gross acre.

(4) On-site features accepted for TDM compatibility in a mitigation proposal and/or measures with area-wide impacts allowed credits pursuant to SCC 30.66B.650(3) must be constructed before any certificate of occupancy or final inspection will be issued.

Former SCC 30.66B.710 Mitigation requirements for impacts to state highways

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

When a development's road system includes a state highway:

(1) Mitigation requirements for impacts on state highways and at intersections of county roads with state highways will be established consistent with the terms of an inter-local agreement as authorized by SCC 30.61.110(9), between the county and the WSDOT, rather than by the provisions of this.

(2) The director of public works will submit to the WSDOT the traffic study and/or any other information relating to the traffic impact of the development, and request a review under tile

WSDOT's mitigation policy. The WSDOT may review the material and recommend mitigation to the director of public works.

(3) The director of public works will review the WSDOT determined mitigation requests and, to the extent that such requirements are reasonably related to the impact of the proposed development, the director shall, as part of the director's recommendation under SCC 30.66B.050, recommend that the requirements be imposed. The approving authority will impose such mitigation measures as a condition of approval of the development in conformance with the terms of the interlocal agreement as specified in SCC 30.61.110(9), between the county and the WSDOT;

(4) A development which takes access from or has frontage on a state highway will be required to meet the WSDOT requirements for dedication or deeding of additional right-of-way, provision of access and construction of frontage improvements on the state highway as determined necessary by the WSDOT;

(5) Any payment to mitigate impacts on state highways must be made at the time specified in SCC 30.66B.340;

(6) Construction of improvements to mitigate impacts on state highways is required at the time specified by SCC 30.66B.440; and

(7) Right-of-way required for state highways shall be dedicated or deeded at the time specified by SCC 30.66B.540.

Former SCC 30.66B.720 Mitigation requirements for impacts to city streets and roads in another county.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

When a development's road system includes city streets or another county's roads:

(1) Mitigation requirements for impacts to city streets and roads in another county will be established consistent with the terms of an interlocal agreement as authorized by SCC 30.61.110(9), between the county and the appropriate jurisdiction.

(2) The director of public works shall forward to the representative of the appropriate jurisdiction the traffic study and any other information on traffic impact for any development whose road system includes that jurisdiction's streets or roads. The jurisdiction may review the material and recommend mitigation to the director of public works;

(3) The director of public works will review the jurisdiction's recommended mitigating measures and to the extent that such requirements are reasonably related to the impact of the proposed development and consistent with the terms of the interlocal agreement, the director of public works shall, as part of the director's recommendation under SCC 30.66B.050; recommend that those requirements be imposed. The approving authority will impose such measures as a condition of approval of the development in conformance with the terms of the interlocal agreement;

(4) A development which takes access from or has frontage on a city street or another county's road will be required to meet the city's or county's requirements for dedication or deeding of additional right-of-way, provision of access and construction of frontage improvements on the city's street or county's road as determined necessary by the city or county;

(5) Any payment to mitigate impacts on city streets or another county's roads must be made at the time specified in SCC 30.66B.340;

(6) Construction of improvements to mitigate impacts on city streets or another county's roads is required at the time specified by SCC 30.66B.440; and

(7) Right-of-way required for cities' streets or other counties' roads shall be dedicated or deeded at the time specified by SCC 30.66B.540.

Appendix J: Specific Code Sections Cited in Chapter 30.70 General Provisions

SCC 30.70.030 Submittal Requirements

(Added Amended Ord.02-064, December 9, 2002, Eff date February 1, 2003)

(1) The department shall establish and may revise written submittal requirements for each type of application or approval required by this title. The requirements shall be made available to the public in a checklist or other form that clearly describes the material that must be submitted for an application to be considered complete. Establishment of submittal requirements shall not be subject to the rulemaking process of chapter 30.82 SCC, but the department shall provide public notice of such changes 30 days prior to their effective date.

(2) Submittal requirements shall not be waived, except that the department may determine in writing that a particular requirement is not applicable upon a clear showing by the applicant that the requirement is not relevant to the proposed action and is not necessary to demonstrate compliance with applicable requirements.

(3) Additional materials may be required by the department as it determines necessary for review of the application.

SCC 30.70.040 Completeness determination

(Added Amended Ord.02-064, December 9, 2002, Eff date February 1, 2003)

(1) The department shall determine whether a project permit application is complete or incomplete within 28 days after receiving an application. The determination shall be in writing and mailed, faxed, e-mailed, or delivered to the applicant or the applicant's representative within the required time period, except as set forth in SCC [30.70.040\(2\)](#). When an application is determined incomplete, the determination shall state what is necessary to make the application complete.

(2) An application is complete for the purposes of this section if the department does not provide a written determination to the applicant within the required time period.

(3) A written determination of completeness shall, to the extent known by the department, identify other local, state, or federal agencies with jurisdiction. The department may include other information in the determination.

(4) A project permit application is complete for the purposes of this section when it meets the submittal requirements established by the department pursuant to SCC [30.70.030](#), including any requirements for environmental review pursuant to chapter [30.61](#) SCC. The county may require additional information or studies after a determination of completeness.

(5) If the department determines an application is incomplete and the applicant submits additional documents identified by the department as necessary for a complete application, the department shall notify the applicant within 14 days of the submittal that the application is complete or what additional information is necessary to make the application complete.

SCC 30.70.210 Minor revisions to approved development applications

(Added by Amended Ord. 13-050, Aug. 28, 2013, Eff date Sept. 19, 2013)

The purpose and intent of this section is to provide an administrative process for minor revisions to approved development applications. For the purposes of this section, approved development applications shall include preliminary approval for subdivisions and short subdivisions and final approval prior to construction for all other development applications.

(1) The minor revision process is applicable to any approved Type 1 and Type 2 development application where an applicant requests a minor revision of the approved plans, except site plans submitted under SCC 30.28.086 and 30.28.105.

(2) Revisions to mixed-use and urban center development applications shall be considered nonresidential development applications for the purposes of this section.

(3) A minor revision to an approved residential development application is limited to the following when compared to the original development application, provided that there shall be no change in the proposed type of development or use:

(a) Short subdivisions shall be limited to no more than one additional lot.

(b) Subdivisions, single-family detached unit developments, cottage housing, townhomes and multiple-family developments shall be limited to the lesser of:

(i) A 10 percent increase in the number of lots or units; or

(ii) An additional 10 lots or units.

(c) A reduction in the number of lots or units.

(d) A change in access points may be allowed when combined with subsection (3)(a) or (b) of this section or as a standalone minor revision provided that it does not change the trip distribution. No change in access points that changes the trip distribution can be approved as a minor revision.

(e) A change to the project boundaries required to address surveying errors or other issues with the boundaries of the approved development application, provided that the number of lots or units cannot be increased above the number that could be approved as a minor revision to the original approved development application on the original project site before any boundary changes.

(f) A change to the internal lot lines that does not increase lot or unit count beyond the amount allowed for a minor revision.

(g) A change in the aggregate area of designated open space that does not decrease the amount of designated open space by more than:

(i) Ten percent for developments located within an urban growth area; or

(ii) Twenty percent for developments located outside of an urban growth area.

Under no circumstances shall the amount of designated open space be decreased to an amount that is less than that required by code.

(h) A change not addressed by the criteria in subsections (3)(a) through (g) of this section which does not substantially alter the character of the approved development application or site plan and prior approval.

(4) A minor revision to an approved nonresidential development application is limited to the following when compared to the original development application, provided that there is no

change in the proposed type of development or use or no more than a 10 percent increase in trip generation:

(a) A utility structure shall be limited to no more than a 400-square-foot increase in the gross floor area.

(b) All other structures shall be limited to no more than a 10 percent increase in the gross floor area.

(c) A change in access points when combined with subsection (4)(a) or (b) of this section or as a standalone minor revision.

(d) A change which does not substantially alter the character of the approved development application or site plan and prior approval.

(5) A minor revision may be approved subject to the following:

(a) An application for a minor revision shall be submitted on forms approved by the department. An application for a minor revision shall not be accepted if a variance is required to accomplish the change to the approved development.

(b) An application for a minor revision shall be accompanied by any fees specified in chapter 30.86 SCC.

(c) An application for a minor revision shall require notification of the relevant county departments and agencies.

(d) An application for a minor revision shall be subject to the development regulations in effect as of the date the original development application was determined to be complete.

(e) The director shall grant approval of the request for a minor revision if it is determined that the minor revision does not substantially alter:

- (i) The previous approval of the development application;
- (ii) The final conditions of approval; or
- (iii) The public health, safety and welfare.

(f) A minor revision shall be properly documented as a part of the records for the approved development application.

(g) A minor revision does not extend the life or term of the development application approval and concurrency determination, which shall run from the original date of:

- (i) Preliminary approval for subdivisions or short subdivisions; or
- (ii) Approval for all other development applications.

(6) The final determination of what constitutes a minor revision shall be made by the director.

Appendix K: Specific Code Sections Cited in Chapter 30.91 SCC Definitions

Former SCC 30.91C.340 Critical area.

(Added Amended Ord. 02-064, December 9, 2002, Eff date Feb. 1, 2003; Emergency Ord. 04-024, March 10, 2004, Eff date March 10, 2004)

“Critical area” means the following areas:

- (1) Wetlands;
- (2) Fish and wildlife habitat conservation areas; and
- (3) Geologically hazardous areas.

SCC 30.91E.150 Erosion

(Added Amended Ord. 02-064, December 9, 2002, Eff date Feb. 1, 2003)

"Erosion" means the removal and loss of soil by the action of water, ice, or wind.

SCC 30.91E.158 Erosion Hazard

(Added by Amended Ord. 10-026, June 9, 2010, Eff date Sept. 30, 2010)

Note: The definition for Erosion Hazard below is included for reference only. This term was undefined in Snohomish County Code on August 4, 2005.

"Erosion hazard" means the soils classified by the Natural Resource Conservation Service (NRCS) of Snohomish County based on soil type, permeability, underlying geology and slope. The actual soil on site shall be used to determine whether an erosion hazard area exists. When there is more than one type of soil on the site, the soil that has the greater erosion hazard shall be utilized to determine whether there is high, medium or low erosion potential on-site.

Former SCC 30.91E.160 Erosion Hazard Areas

(Added Amended Ord. 02-064, December 9, 2002, Eff date Feb. 1, 2003)

Means those areas with naturally occurring slopes, containing soils which are at high risk from water erosion according to the mapped description units of the United States Department of Agriculture Soil Conservation Service Soil Classification System.

[Present-day] SCC 30.91E.160 Erosion Hazard Areas

(Added Amended Ord. 02-064, December 9, 2002, Eff date Feb. 1, 2003; Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007)

"Erosion hazard areas" means:

- (1) Areas containing soils which are at high risk from water erosion according to the mapped description units of the United States Department of Agriculture Natural Resources Conservation Service (NRCS), formerly the Soil Conservation Service, National Soil Classification System,
- (2) Channel migration zones; and
- (3) The shorelines of water bodies subject to wind and wave erosion.

SCC 30.91G.020 Geologic hazard areas (Geologically hazardous areas).

(Added Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003)

"Geologic hazard areas" ("Geologically hazardous areas") means areas that because of their susceptibility to erosion, sliding, earthquake, or other geologic events, may not be suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns. Geologically hazardous areas include erosion hazard areas, landslide hazard areas, seismic hazard areas and mine hazard areas as defined in this chapter.

***Former* SCC 30.91L.040 Landslide hazard areas**

(Added Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003)

30.91L.040 "Landslide hazard areas" means areas potentially subject to mass earth movement based on a combination of geologic, topographic, and hydrologic factors, with a vertical height of 10 feet or more. These include the following:

- (1) Areas of historic landslides as evidenced by landslide deposits, avalanche tracks, and areas susceptible to basal undercutting by streams, rivers or waves;
- (2) Areas with slopes steeper than 15 percent which intersect geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock, and which contain springs or ground water seeps;
- (3) Areas located in a canyon or an active alluvial fan, susceptible to inundation by debris flows or catastrophic flooding.

***[Present Day]* SCC 30.91L.040 Landslide hazard areas.**

(Added Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015)

"Landslide hazard areas" means areas potentially subject to mass earth movement based on a combination of geologic, topographic, and hydrologic factors, with a vertical height of 10 feet or more. These include the following:

(1) Areas of historic landslides as evidenced by landslide deposits, avalanche tracks, and areas susceptible to basal undercutting by streams, rivers or waves;

(2) Areas with slopes steeper than 33 percent which intersect geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock, and which contain springs or ground water seeps;

(3) Areas located in a canyon or an active alluvial fan, susceptible to inundation by debris flows or catastrophic flooding.

For subsections (1), (2), and (3) of this section, the landslide hazard area also includes lands within a distance from the top of the slope equal to the height of the slope or within a distance of the toe of the slope equal to two times the height of the slope. The director may expand the boundary of a landslide hazard area pursuant to SCC 30.62B.390.

30.91N.035 Net density.

(Added Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003)

"Net density" means the density of residential development excluding roads, critical areas and required buffers, drainage detention/retention areas, biofiltration swales, and areas required for public use.